Donald Smith

THE PRACTICE

OF THE

FREE CHURCH OF SCOTLAND

IN HER SEVERAL COURTS

THE PRACTICE OF THE FREE CHURCH OF SCOTLAND

IN HER SEVERAL COURTS

REVISED EDITION

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PREFACE

THE object of this publication is to facilitate an acquaintance with the laws and constitutional practice of the Ecclesiastical Courts in the Free Church of Scotland. The General Assembly does not propose to decide authoritatively any controverted point by means of such a publication, such points can be settled only by judicial or legislative action. But the work is authorised as a useful guide in ordinary matters, and as an instrument for assisting ministers, elders, deacons, and members of the Church in judging how far particular questions have been authoritatively determined, and how far there remains any doubt regarding them.

The peculiarities connected with the constitution of the Deacons' Court make it inexpedient to introduce it as if it were the initial part of an ecclesiastical system. The Kirk-Session is the fitting basis from which to proceed upward. The subject of the Deacons' Court will take its place more appropriately and constitutionally in the form of a supplement to the chapter regarding the Kirk-Session. This method will facilitate the suggestion of sound views respecting the relative position of the Deacons' Court.

The subject of discipline, and the processes therewith connected, may perhaps be made more clearly intelligible when taken by itself, and exhibited in its peculiarities with respect to the several Courts, after the constitution, powers, and functions of each of these Courts have been previously explained. The plan adopted, accordingly, is to set forth the authorised Processes in cases of discipline, by means of an additional chapter. That chapter is divided into parts, so as at once to manifest the harmony of procedure in all the Courts, and the variety which belongs to each.

In the present edition both text and appendices have been brought into accordance with the legislation of the Church up to the present year. Careful attention has been given to the

changes effected subsequent to 1900. Though the secession in that year of a large majority necessitated considerable readjustment of agencies, the Assembly and inferior judicatories were duly maintained. The historic decisions of the House of Lords of date 1st August 1904, vindicating the rights of the Church against the pretensions of the United Free Church, which had been countenanced by the Courts below, are given in an appendix. The subsequent alienation (under Orders of the Commission appointed under the Churches (Scotland) Act, which Act is also given in an appendix) of much of the property of the Free Church required special methods to be devised for carrying on her work. Innovations which had been introduced by the unconstitutional action of the late prevailing party in her judicatories had to be swept away by suitable enactments, and safeguards introduced against the recrudescence of similar evils. The various measures required by these circumstances will be found noticed in their appropriate places so far as necessary.

The work of revision has been carried out by a committee appointed by the General Assembly. The members of the Committee are—Professor J. K. Cameron, *Convener*; Principal J. D. M'Culloch, Professor C. A. Bannatyne, Rev. W. W. Aitken, Rev. F. Macrae, Rev. D. Maclean, Mr W. Rounsfell Brown, Mr A. MacNeilage, Mr J. MacPhail, and Mr D. M. Smith.

Preface to 1964 Edition

THIS edition of " The Practice of the Free Church of Scotland " is on the lines of the former one (1912) except that certain appendices, bearing on matters now either out of date or in process of re-adjustment, have been omitted from this issue.

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CHAPTER I.

The Kirk-Session: its constitution, powers, and functions.

Part I.—*Officials of the Kirk-Session.*

1. The Pastor or Pastors of each Congregation, along with a suitable number of Elders, who are not pastors, constitute the Kirk-Session.

Members.

2. Those Elders who do not exercise the pastoral office are called Ruling Elders. The principle announced in the Second Book of Discipline is still maintained in the Free Church of Scotland, that the number ought to be regulated by "the bounds and necessity of the people." These Elders are elected for life, or until they cease to be members of the Congregation, or their resignation be accepted of, or they be held and declared to have resigned through long absence from sessional meetings, or they be deposed.

Pastor or Pastors.

Ruling Elders.

Election of Ruling Elders.

3. The election of Ruling Elders belongs, in the Free Church of Scotland, to the members of the Congregation in full communion.

It is held that the mode of election may be regulated specifically by the Church Courts, provided no arrangement be sanctioned that is inconsistent with the free choice by the communicants, or with the superintendence and judgment of the Kirk-Session.

The election of Elders should be conducted upon the same general principles as the election of Ministers, subject *to such modifications as the nature of the case and the practice and circumstances of the Congregations may suggest.*

Qualifications of Ruling Elders.

4. The qualifications required of Ruling Elders are the following:—

They must be in full communion with the Congregation.

Each of them must have attained the age of twenty-one years.

They must possess more or less of all the qualifications described in the New Testament, as needful for persons exercising spiritual oversight in the Church, whether such persons be designated in our translation by the term *bishop* or by the term *elder*.

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An ordained Minister who, from any cause not involving Church censure, is without a pastoral charge, is eligible as a Ruling Elder in the Congregation to which he belongs.

Election of an Elder formerly ordained.

5. A person formerly ordained to the office of the Eldership is regarded as retaining the status of an Elder in the Free Church of Scotland. But he can become an Elder of a particular Congregation only when he has been elected by the members according to the procedure adopted by the Kirk-Session in carrying out the general principle that it appertaineth to the people to elect their office-bearers.

Time of meeting.

6. In special or urgent cases meetings may be held on the Lord's day; but the spirit of the old law is in favour of the Kirk-Session being summoned to meet after a week-day prayer-meeting.

Mode of convening the Kirk-Session.

7. The Kirk-Session is legally convened by authority of the Moderator, or by command of a superior Court, either through public intimation from the pulpit, or through personal citation to all the individual members. A reasonable time must be allowed for the attendance of the members. No meeting of Kirk-Session can be held at an hour when the Presbytery or Synod of the bounds or General Assembly is sitting.

Adjournment of Meetings unusual.

8. No meeting can be held on any particular day, for the transaction of any new business, without notice having been given as above.

Necessity for presence of Pastor as Moderator.

9. The Pastor, or other Minister at his request, must preside as Moderator. If there be more than one pastor, it is determined by their mutual agreement who shall act as Moderator at any particular meeting; and any Pastor of a Congregation, when not acting as Moderator, sits in the Kirk-Session as a constituent member.

Quorum.

10. Two members of Kirk-Session, along with the Moderator, form a sufficient quorum to enable the meeting to proceed to business.

Powers of Moderator.

11. The Moderator may introduce any business to the Session, and may address them regarding it. He has also, in common with the other members, the right of dissent and complaint against any decision to the Presbytery, or Synod, or General Assembly. But he has no deliberative vote, although, in case of an equality, he has a casting vote.

Power of deputing a Minister to act for him.

12. It has been considered as established by practice that, in the absence of the Moderator, any other minister of the Church may preside in his room, if deputed by him to do so. In cases of discipline, a Commission by a Kirk-Session to a Representative Elder can only be sustained, if the person acting as Moderator has been specially authorized by the Presbytery.[1] A Minister acting in the room of the Moderator is designated Moderator *pro tempore*, and signs the minute as such.

[1] See Assembly Proceedings, *Presbyterian Review*, July 1835, page 12.

13. In the event of a vacancy in the pastoral office, a Minister, who is a Member of Presbytery, is appointed by the Presbytery to act as Moderator of Session; and in the event of there being no Ruling Elders, or only one, the Presbytery appoint one or more assessors from their own body to act as Members of Session, until a new election of a Ruling Elder or of Ruling Elders shall have taken place.[1] Appointment of Interim Moderator and Assessors.

14. When a new Congregation has been formed, and when the charge of it has been duly sanctioned as a full ministerial charge with all congregational privileges, the right to have a separate Kirk-Session is thereby acquired. With a view to constituting one, it is the duty of the Presbytery to name certain members of their own body to act as a Kirk-Session in that Congregation, until at least two Elders shall have been elected by the communicants, and duly admitted to their office. Mode of constituting a Session in a new Congregation.

The General Assembly of 1863 declared that it remains with the Presbyteries of the bounds to arrange in regard to the appointment of Elders, and the Establishment of Kirk-Sessions for local discipline and management in Preaching Stations, it being understood that a Minister of the Presbytery shall act as the Moderator of every such Kirk-Session. The Assembly also declared, that wherever the Presbytery deem it expedient the Elders of Preaching Stations may still be connected with regularly established Kirk-Sessions in sanctioned charges. Mode in Preaching Stations.

15. The Kirk-Session appoint a Session-Clerk, who is usually one of their own number, and whose duty it is to write regular minutes of the Sessional procedure, to engross the same in a permanent record, and to take charge of all Sessional papers, books, and documents. The Session-Clerk, when appointed, ought to make a solemn declaration that he will faithfully discharge the duties of his office. In the absence of the Session-Clerk, some one is appointed by the Session to act as Clerk *pro tempore*. The fact of his appointment should be entered in the minute, and the minute should be signed by him as Clerk *pro tempore*. The Session-Clerkship.

16. Every Meeting of Kirk-Session is both opened and closed with prayer. The minute must always bear at the outset that the Session was constituted (which expression is understood to imply that it was constituted with prayer), and at the end, that the meeting was closed with prayer. No minute can be sustained as valid, if it does not mention these two particulars. No extract from the minutes can be received which does not bear that the Session was "constituted," and which is not certified by the Session-Clerk as having been extracted by him from the Records of the Kirk-Session. Opening and Closing of Session.

17. Before proceeding to any other business, the Session ought, at each meeting, to hear the minutes of last sederunt Approval of Minutes.

[1] This is the usual practice, but there is no law to prevent the Presbytery from appointing any minister or elder within their bounds to act as assessor, if he be willing.

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read; and the judgment of the Session—approving of said minutes or correcting them — ought to be recorded. The approval or correcting of the minutes does not imply any power to alter the *res gestæ* of the former meeting. The only question is, the correctness of the minute, as a true account of what was done.

Power of opening the Meetings to the Public.

18. The meetings of Kirk-Session are not usually open to the public, or even to the Congregation. But the Session may hold open meetings, if they see special cause; and they are specially authorized to invite the Deacons to be present at any meeting, for the sake of their advice and assistance; although, in such a case, the Deacons have no vote.

The Session Officer.

19. The Session appoint an officer, who is in attendance at their meetings and executes their orders.

PART II.—*Powers and Functions of the Kirk-Session.*

Relation to the Pastor.

1. The Kirk-Session do not stand to the Pastor or Minister in the relation of his spiritual rulers. At the first meeting of Session, after his admission to office by the Presbytery, the fact of his admission, and its date, ought to be minuted. He is not responsible to the Kirk-Session for the discharge of his own functions, although, if he seem to neglect these, or to encroach upon the Session's functions, they can petition the Presbytery against his procedure. He is permitted to exercise a large discretion in his endeavours to advance the spiritual welfare of all classes and conditions of people within his reach. Hence it follows that the place of worship is at the disposal of the Minister for the spiritual purposes of his office. But he cannot use it, or allow it to be used, for any purpose which is not of a strictly religious, ecclesiastical, or charitable nature, without the consent of the Deacons' Court. On the other hand, neither the Kirk-Session nor the Deacons' Court can employ it for any purpose whatever without the Minister's consent.

Use of Church.

Responsibility of Minister for the conduct of Worship.

The Minister is specially responsible to the Presbytery for the mode in which all the parts of public worship are conducted. Hence it follows that no one can act as Precentor without the Minister being satisfied with his mode of conducting the psalmody. The nature of the Kirk-Session's functions may lead to the conclusion that they ought also to be satisfied on those points. The General Assembly have approved generally of certain recommendations as to the election of Precentors drawn up by the Praise Committee.

Election of Precentors.

Authority of Kirk-Session as to Congregational Meetings.

2. No Congregational meeting which can be recognised as valid for ecclesiastical acts can be held, except by the authority of the Kirk-Session, or of a superior Court; and at every such meeting the Minister of the Congregation, if present, must preside.

3. The Kirk-Session determine when it is expedient to have an election of Ruling Elders, and what number is required.

Procedure as to Election, Ordination, and Admission of Ruling Elders.

When an election of Ruling Elders has taken place, either by open voting at a congregational meeting in presence of the Kirk-Session, or by signed lists given in and opened at such a meeting, or in any other scriptural and constitutional method, the Kirk-Session are called upon to judge of the qualifications of the persons chosen. No person can be admitted as a Ruling Elder if the Kirk-Session be dissatisfied with his qualifications, unless their judgment be reversed by the Presbytery or a higher Court, when brought under review in an orderly manner, according to the rules of the Church. If the Kirk-Session be satisfied with respect to the question of qualifications, they ascertain whether the person or persons elected are willing to accept of the office or not. It is the duty of the Session to deal in a scriptural manner with the parties chosen to office, in order to obtain their acceptance. This duty is discharged to a large extent through the Moderator, but it by no means belongs to him exclusively. If the consent of the person or persons elected be obtained, the Kirk-Session appoint a day and hour for the ordination or admission, as the case may be, and direct an Edict to be issued and served to that effect, on a convenient Sabbath, at least seven free days previously to a time specified as appointed for a meeting of Session thereanent. It is the duty of the Session-Clerk to prepare the Edict. It is the duty of the Minister to read it from the pulpit. The Edict contains a statement of the steps which have been taken and the result, and it adds an intimation, that if any person have any objection to the life or doctrine of the party or parties mentioned, that objection must be given in to the Session at the meeting, of which the time and place are specified, with certification, that if no objection be then and there given in, the ordination or admission will be proceeded with on the day and at the hour appointed. At the time specified in the Edict, the Kirk-Session having met, ascertain from the Minister that the Edict has been duly issued and served. The Session then direct the Session Officer to intimate at the door, that if there be any objections, the Session are now prepared to hear them. If any objections are given in, the party making an objection is required to substantiate it forthwith as an objection to life or doctrine. If the objection appear, in the judgment of the Session, to be substantiated, they must decline to proceed with the ordination or admission, and must take the party objected to upon discipline. But if the Session find that the objections are frivolous or unsupported by evidence, it is their duty to proceed with the ordination or admission as appointed. The ordination or admission usually takes place on Sabbath, in the presence of the Congregation, at the close of one of the diets of public worship. The Session having been previously constituted, the Moderator gives a narrative of the steps which have been taken and their result. Then he calls upon the elected person or

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persons to stand up, and puts certain questions required to be answered satisfactorily, in terms of an Act of the General Assembly. (See Appendix, II. 1.) Then the Moderator, in the case of parties not previously ordained as Elders in any Congregation, sets them apart by special prayer to their office, and commends them to the grace of God. There is no imposition of hands, but after offering up the ordination prayer, the Moderator formally admits them as members of the Kirk-Session, and to the spiritual rule of the Congregation. Thereafter, he gives to them the right hand of fellowship, in which he is followed by all the other members of Session present. In the case of parties formerly ordained as Elders, the Moderator puts the questions to them, and after receiving satisfactory answers, admits them at once to office, without the ordination prayer. Of course this distinction does not prevent the exercise of special prayer, in immediate connection with the admission to office in a particular Congregation of previously ordained Elders. The meeting of the Congregation is concluded by an exhortation from the Moderator, both to the newly admitted Elders and to the people. When the Congregation have retired, it is the duty of the Session to see that the newly admitted Elders sign the Formula and take their seats as members of Session, and that their names are added to the roll.

Roll of Kirk-Session.

4. The Kirk-Session ought to keep a roll of its Members, and on each occasion of change in its membership, this roll ought to be revised and inserted in the Minute.

Election and Admission of Deacons.

5. The Kirk-Session determine when it is expedient to have an election of Deacons, and what number is required. The Kirk-Session exercise precisely the same functions, with reference to the election and ordination or admission of Deacons, as in the case of Elders.

Regulation of Action for Elders individually.

6. It is the duty and function of the Kirk-Session collectively to make arrangements for the division of the Congregation into districts, and the assignment of these as fields of labour to the Ruling Elders individually. They are empowered to regulate the exercise of all the functions belonging to Ruling Elders, in so far as the orderly working of these may require subdivision or co-operation.

No Power to regulate duties of Deacons or to review decisions of Deacons' Court.

7. It is no part of the Kirk-Session's function to review the decisions of the Deacons' Court. If the Kirk-Session consider that the Deacons' Court have violated the Acts of Assembly or the Laws of the Church, the only remedy, besides friendly remonstrance, to which the Kirk-Session can have recourse, is that of presenting a petition to the Presbytery.

Functions as to Resignations, etc., of Elders and Deacons.

8. No resignation of office by a Deacon is valid, unless addressed to the Kirk-Session, who exercise the same power with reference to Deacons as they do as to Elders, both in their admission to office, and in their removal from it.[1] The Kirk-

[1] Assembly Proceedings, 29th May 1845, p. 172.

Session may find that an Elder has ceased to be one of their number, or that a Deacon has ceased to be a member of the Deacons' Court, because he has ceased to be a member of the Congregation. It was held competent by the General Assembly in 1806, for a Kirk-Session to find, that an Elder has ceased to be one of their number, because he was not resident in the parish, and had failed to return, within a period of twelve months, to discharge the duties of his office. The General Assembly, in 1850, declared that five Elders, having withdrawn from the Session of which they were members for more than a year, had ceased to be, and no longer were, members of the Session or Deacons' Court of the Congregation. The Kirk-Session have power, in the exercise of discipline, to pronounce sentence of suspension or deposition against either an Elder or a Deacon, when they find it necessary to do so, in accordance with the word of God, and with the rules of the Church.

Roll of Communicants.

9. It is necessary that an accurate roll of the members in full communion be kept by the Session-Clerk among the Sessional documents. A copy of this roll, revised by the Kirk-Session, and signed by the Moderator and Clerk, must be sent to the Presbytery of the bounds every year for attestation. The Kirk-Session may revise or purge the roll at any period; but it is usual to do so at the time of the dispensation of the Lord's Supper. It is required that, before any steps be taken in the election of a Minister, the Kirk-Session shall have a Roll of Communicants made up and attested, as containing the only list of those entitled to vote.

Admission to Ordinances.

10. No one can be admitted to the privilege of Baptism or the Lord's Supper, without satisfying the Kirk-Session that he or she possesses these qualifications, viz.:—(1.) A confession of faith in accordance with the word of God and the standards of the Church. (2.) A life and conversation becoming the gospel, in so far as can be outwardly seen. (3.) A competent knowledge of religious truth, and of the nature and meaning of Christian ordinances.

Qualifications for Admission.

The recognised methods by which the Kirk-Session satisfy themselves as to the possession of these qualifications are *two*,— that of certificate, and that of examination and observation.

Persons who claim admission to the use of the ordinances of Baptism and the Lord's Supper, on the ground of their having been previously in communion with other congregations, must produce satisfactory certificates from the Kirk-Sessions of these congregations, to the effect that the parties named leave their respective congregations in full communion. Upon the receipt of any such certificate, it is the duty of the Kirk-Session to appoint the name of the party to be added to the roll. The Kirk-Session is bound, on the other hand, to grant such a certificate, when asked for by any person in full communion with their congregation, and against whom no legitimate ground of

Church censure can be alleged. An authentic intimation from a Minister or Elder, that a person is in full membership with the congregation in which that Minister or Elder officiates, is sometimes allowed to stand as sufficient ground for the temporary or occasional admission of the person to communion in another congregation. But, in this case, the person's name is not added to the one roll, nor removed from the other.

Duties of Minister and Elders in judging of qualifications, etc.

Persons who ask for admission to the privilege of Baptism or the Lord's Supper, without having been previously in full communion with any congregation, are subject to the examination and observation of the Kirk-Session with respect to their qualifications. Without any inquisitorial minuteness, their outward conduct may be judged of, through the observation of the Minister, or one or more of the Ruling Elders. If there be nothing in what is thus seen decidedly inconsistent with their profession, and fitted to subject the parties to Church censure, and if no charge against them be brought before the Session, it is not competent for the Session to reject them merely on account of what the Minister or any Elder may conceive to be the state of their minds, unless their profession or their knowledge be defective. It is usual for the Minister to take the principal charge of examining the applicants with respect to their profession and their knowledge. The Elders, however, are entitled and called upon to give their help in this department, in so far as their doing so may seem necessary or useful.

It is the approved practice for the Minister to exhort the applicants with respect to all the more hidden qualifications which the word of God requires, and of which they themselves alone can judge.

Regulation of Cards, Tokens, etc.

The Kirk-Session are entitled to regulate the mode for the distribution of Communion Cards or Tokens, according to their discretion.

Discipline.

11. A specially important function of the Kirk-Session, is the exercise of discipline. This function belongs to the Kirk-Session exclusively in the first instance, with respect to all members and adherents of their Congregation, except the Pastor, who is specially subject to the immediate jurisdiction of the Presbytery.

Times and hours of Worship, etc.

12. It is the function of the Kirk-Session, with concurrence of the Minister, to fix the times and hours of public worship on the Lord's day, to appoint Fast-days, and to authorize the administration of the Sacraments. But it is usual in the case of baptism, where the parent is in full communion, to leave the matter in the hands of the Pastor.

Special Collections for local purposes.

13. The Kirk-Session are entitled to appoint special collections at the Church doors for local purposes affecting the cause of Christ or the interests of the Congregation, except for the temporal relief of poor members, or the education of the children of the poor, for which objects the Deacons' Court are expressly authorized by Act of Assembly to appoint collections.

14. Every Kirk-Session has a right and is bound to elect one of the Ruling Elders belonging to their number, as a Representative to the Presbytery and Provincial Synod of the bounds. The election is made after the rising of the Spring meeting of the Synod. It must take place within two calendar months after that date, except as provided in Act IV. 1893, and in the case of a newly-sanctioned charge, when the induction of the Minister and the constitution of the Session have taken place more than two months after the meeting of Synod, in which case the election may be within one month after the induction and constitution. (See Act I. 1875.) The election must be regularly minuted. It must also be certified in the body of the minute, that the person elected is *bona fide* an Acting Elder in the Congregation. If the representative thus elected die or resign within the period for which his commission would otherwise last, a new election may be made within one month thereafter.

Election of Representative in Synod and Presbytery.

If one of the Ruling Elders in any Kirk-Session be chosen by a Presbytery to represent them in the General Assembly, that Kirk-Session must certify, according to a form prescribed by Act of Assembly, that he is *bona fide* an Acting Elder in their Congregation, and that he has signed the Formula.

According to Act XIII., Assembly 1863, the Elders of Preaching Stations have the full status of Elders, and are eligible to sit in the General Assembly as representatives of Presbyteries. But wherever such Elders are not connected with Kirk-Sessions established in fully sanctioned Congregations, their certificates of being *bona fide* acting Elders must be given by the authority of the Presbytery of the bounds.

15. The usual and approved order of business in a Kirk-Session is as follows:—(1.) The opening prayer, and constituting of the Session. (2.) The taking down of the sederunt by the Clerk. (3.) The reading and approval of minutes of last meeting. (4.) Business of immediate and peculiar urgency. (5.) Matters left over at former meetings, in the order of their appearance on the minutes. (6.) New cases of discipline. (7.) Other business brought before the meeting, or naturally suggesting itself to the Session's attention.

Order of Business.

16. The Kirk-Session are held responsible by the Presbytery for the record of their proceedings being regularly and faithfully kept by their Clerk. Not only must the facts as to the constitution and regular closing of each meeting be correctly stated, as well as the approval of each preceding minute, but the names of all the members present must be recorded. There must be no blottings or interlinings in the Record. If anything be deleted, it must be marked on the margin, and any word or words omitted must be written on the margin, and attested there by the Clerk's initials. Any erasure of the minutes can be made only by authority of the Presbytery, who may call for the Record at any time. It is sent up from time to time for examination and

Record.

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attestation by that body. Every minute ought to be signed, both by the Moderator and the Clerk.

Power of dissent.

17. Any member of a Kirk-Session may enter his dissent from any part of their procedure. He may require his dissent to be marked in the Record. In order to be received, the dissent must be given in immediately when the judgment dissented from is pronounced, and consequently can be given in by those only who were present at the pronouncing of it. Absent members are not entitled to dissent. If a dissent has been given in at the proper time by one or more members of Session, there is no rule to prevent other members of Session who were present from intimating at the next meeting their adherence to that dissent. If reasons for the dissent be given in along with it, both the dissent and the reasons ought to be engrossed in the Record. If the dissent itself be duly given in, intimation may be also given that reasons for it will be added at a subsequent meeting, in which case it is competent to receive the reasons when produced, and also to answer them if the Kirk-Session see cause. But the Kirk-Session are not bound to enter those reasons in the Record. The right course is to appoint them to be kept *in retentis*, that is, to be preserved among the Sessional documents. A simple dissent, as here described, whether with or without reasons, is not sufficient to enable the person dissenting to bring the matter under the review of a superior Court. The effect is only to save him from any censure that may arise out of the procedure, and from seeming to acquiesce in what he considers contrary to the mind of Christ.

Dissent and Complaint.

18. A member of Kirk-Session may (as it is technically expressed) also *dissent and protest for leave to complain* to the Presbytery. A dissent and complaint can be received only at the time when the judgment complained of is pronounced, and are incompetent at a subsequent meeting. Reasons of dissent and complaint must be lodged with the Session-Clerk within ten days from the date of the judgment and the protest. Copies of these reasons, with all the papers and extracts of minutes belonging to the case out of which the complaint has arisen, must be transmitted by the complainer or complainers to the Clerk of Presbytery. The copies, papers, and extracts must be all duly certified by the Session-Clerk.

The effect of a Dissent and Complaint, carried out in regular form, is to bring the proceedings of the Kirk-Session under the review of the Presbytery; and the complainer or complainers, and all parties in the case, as well as the majority of the Kirk-Session, are thereby sisted at the bar of the Presbytery. The giving in of a dissent and complaint has the effect of sisting the procedure of the Kirk-Session in the matter to which the complaint relates, until either a final decision by the Presbytery, or Synod, or General Assembly be pronounced on the case, or the complaint be fallen from. A complaint may be fallen from at

any time, but it is always held to be fallen from, if the reasons be not lodged with the Session-Clerk or Moderator within ten days.

Power of Appeal.

19. A party in a case which has been under consideration by the Kirk-Session, may appeal against their judgment to the Presbytery. An appeal is taken at the meeting at which the judgment has been pronounced, and immediately on its being intimated to the party. Reasons of appeal are either stated by him at the time, and entered on the Record, or they must be lodged by him in writing with the Moderator, or with the Session-Clerk, within ten days from the date of the appeal. Copies of these reasons, with all papers and extracts of minutes, relating to the judgment appealed against, are transmitted by the appellant or appellants to the Clerk of the superior Court, after having been duly certified by the Session-Clerk. The effect of an appeal, duly prosecuted, is to bring the judgment under review of the superior Court. It sists at the bar of that Court the appellant or appellants, and all parties in the case, as well as all members of Session who do not dissent or complain. An appeal, which is not considered frivolous, sists procedure until a final judgment be pronounced regarding it by a superior Court, or until it be fallen from, except in those instances in which the General Assembly may have otherwise provided by special act or instruction. Such an appeal always prevents, during its dependence, the final execution of a sentence. Frivolous appeals may be disregarded, the right of the appellant to prosecute his appeal being always reserved. No member of Kirk-Session, who is not a party in a case, can take an appeal with relation to it. His appeal would be held incompetent, because he has the right of dissent and complaint. An appeal may be fallen from at any time, but is always held to be fallen from if the reasons for it be not lodged with the Session-Clerk or Moderator within ten days from its date.

Power of Reference.

20. The Kirk-Session may refer any case, or any branch of a case, to the Presbytery for advice; but they expose themselves to censure, if the Presbytery do not sustain the reference, and if they find that there was no occasion for it. The whole case may be referred *simpliciter*, without any remark being made upon it, or some special point of difficulty may be referred for solution. The subject referred, and the resolution to refer, ought to be transmitted to the Clerk of Presbytery, along with the whole particulars of the case, or so much of them as will make the reference thoroughly understood. Although a reference brings up all parties, care should be taken that they are all duly informed that the reference has been made. If the General Assembly meet before the next meeting of Presbytery, the reference may be made to the Assembly. The Kirk-Session instruct their Clerk to prepare and transmit to the Clerk of Presbytery the papers, documents, and extracts which the case of reference requires.

Citation.

21. A party may be cited either *apud acta* (that is, by inti-

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mating to him the summons openly at the meeting of Session), if he be present, or by personal notice given to him through the Session Officer. The personal citation of a party by the Officer ought to be in writing, according to a form furnished by the Session-Clerk; and the Officer ought to retain a copy of the written citation, in order that he may report upon the subject with accuracy, so as to give clear evidence to the Kirk-Session or the superior Court that the party has been duly summoned.[1]

Petition to a Kirk-Session.

22. Any member of the congregation, or any person connected with it, may present a petition to the Kirk-Session regarding any matter which affects his or her spiritual interests, or the spiritual interests of the congregation, or the interests of the gospel in the locality, and which asks for any procedure within the competency of the Kirk-Session. If such a petition be worded in a manner becoming the profession of the gospel, the Kirk-Session ought to consider it, and to come to such competent determination regarding it as they may judge for edification. By their petition, if competent, petitioners become parties at the bar of the Kirk-Session, and have consequently the right of appeal as parties to the Presbytery or Assembly.

Power of petitioning the Presbytery.

23. It is competent for the Kirk-Session themselves to petition the Presbytery, or Synod, or Assembly, with relation to any subject within the competency of that superior Court to which the petition is addressed, if the subject be not one which can come up by reference, appeal, or complaint.

Right of parties to Extracts.

24. Complainers and appellants are entitled to such extracts from the minutes of Kirk-Session, and to copies of such papers in the Kirk-Session's hands, as are necessary to enable them to bring the subjects of their complaints or appeals fully before the Presbytery. It is usual, at the time of taking the complaint or appeal, to call for such extracts and copies. The fact of this request being made and acceded to, is expressed in the minutes by the phrase, "took instruments in the Clerk's hands, and craved extracts, which were allowed." "To take instruments" implies the tendering of a piece of money to the Clerk. The Kirk-Session are not at liberty to refuse the requisite extracts and copies, in the case of a competent complaint or appeal, and the Session-Clerk is bound to furnish what the Kirk-Session have granted. The Kirk-Session, if they think fit, grant extracts to other parties besides complainers and appellants. But the Session-Clerk is not at liberty, in any instance whatever, to give extracts without the sanction of the Kirk-Session.

Explanation to parties.

25. It is the duty of the Kirk-Session to explain to parties the rules and forms of Church procedure, so that no injury may be done to any cause, through ignorance of those rules and forms.

26. The regular mode of redress for encroachment by one

[1] App. XI. 2.

Kirk-Session on the province of another, is for the Kirk-Session who feel that their jurisdiction has been interfered with, to petition the Presbytery upon the subject. Such petition ought to be addressed to that Presbytery which has jurisdiction over the Kirk-Session whose procedure is complained of.

No power to review the action of another Kirk-Session.

SUPPLEMENT TO CHAPTER I.

THE DEACONS' COURT: ITS CONSTITUTION, POWERS, AND FUNCTIONS.

PART I.—*The Constitution and Officials of the Deacons' Court.*

The following rules of practice are observed in regard to the Deacons' Court:—

1. The Pastor or Pastors of each Congregation, along with the Ruling Elders and the Deacons, constitute the Deacons' Court.

Meeting of Pastor, Elders, and Deacons.

2. The Deacon's function is the administering the temporal affairs of a Congregation. The higher office scripturally includes the lower. The Pastor and Ruling Elders are, therefore, not excluded from the exercise of the Deacon's function. The number of Deacons in each Congregation ought to be in proportion to the size and position of the Congregation. Deacons are elected for life, or until they cease to be members of the Congregation, or their resignation be accepted of, or they be held and declared to have resigned through long absence from meetings of Deacons' Courts, or they be deposed.

Specialty of Deacons' Office.

Duration of Office, etc.

3. The election of Deacons belongs to the members of the Congregation in full communion.

Election of Deacons.

4. The case of a person having formerly held the office of Deacon in another Congregation (or even in the same Congregation) is dealt with in the same manner as that followed in the corresponding case of a Ruling Elder.

5. Those appointed Deacons must be in full communion with the Congregation.

Qualifications.

6. The Deacons' Court ought to meet, if possible, once a month at least, with a view to the oversight of the Sustentation Fund. The ordinary business of the Deacons' Court cannot be transacted on the Lord's day.

Monthly Meetings, etc.

7. The Deacons' Court is convened by citation from the pulpit, or by personal notice to the members. It is called by authority of the minister, or at the requisition of any three members,—said requisition being addressed to the Minister, or in time of a vacancy, to the Clerk of the Court.

Mode of Convening Deacons' Court.

The citation is sufficient if a reasonable time be allowed for the attendance of the members.

Citation.

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No meeting of Deacons' Court can be held at an hour when the Presbytery or Synod of the bounds is sitting.

Adjournment.

8. No meeting can be held on any particular day, for the transaction of any new business, without intimation having been previously given of such a meeting.

Presidency.

9. If there be only one Pastor or Minister in a Congregation, he always presides in the Deacons' Court when he is present. In his absence any other member of the Court may be chosen to preside. If there be more than one Pastor, it is determined by mutual agreement who shall preside, when they are both present. The other Pastor sits as a constituent member of the Court.

Quorum.

10. The quorum of Deacons' Court is the same as that of the Kirk-Session, except that the presence of a Pastor as one of the quorum is not necessary.

Power of Chairman.

11. The Chairman may introduce any business to the Deacons' Court, and may address them regarding it. He has only a casting vote.

12. The Deacons' Court are required to appoint one or more Treasurers and a Clerk.

Treasurers.

13. The practice is to appoint a special Treasurer for the Sustentation Fund. This Treasurer keeps a Register embodying the contents of the Deacons' and Collectors' books.

Clerk.

14. The Clerk of the Deacons' Court is required to keep a separate Record for the Minutes of its procedure, and to take charge of such of its papers, books, and documents as are not intrusted to the custody of a Treasurer.

Opening and Closing, etc.

15. Every meeting of Deacons' Court is both opened and closed with prayer. The Minute must always bear at the outset that the Deacons' Court was *constituted*, and at the end that the meeting was closed with prayer. No Minute is valid without the mention of these particulars. No extract can be received which does not bear that the Deacons' Court was constituted, and which is not certified by the Clerk as having been extracted by him from the Records of the Court.

Order of Business.

16. Before proceeding to other business, the Deacons' Court ought, at each meeting, to hear the Minutes of last sederunt read; and the judgment of the Deacons' Court—approving of the Minutes or correcting them—ought to be recorded. That judgment refers only to correctness of the Minutes as a true account, and not to the merits of the *res gestæ*.

Power of holding open Meetings.

17. The meetings of Deacons' Court are not usually open to the public, or the Congregation; but the Deacons' Court may hold open meetings if they see special cause.

Beadle.

18. The Church Officer or Beadle has as one of his functions that of the Officer of the Deacons' Court, and is bound to be in attendance at the time of their meetings.

PART II.—*The Powers and Functions of the Deacons' Court.*

General Powers of Deacons' Court.

The Deacons' Court have charge of the whole property belonging to the Congregation, or held for the Congregation's use by Trustees appointed in terms of deeds which the General Assembly has sanctioned; also of all the Congregation's secular affairs. They arrange for the Assembly's collections being taken and disposed of as instructed by the Assembly. The distribution of all the congregational funds is subject to the regulation of the Deacons' Court, in the exercise of their allowed discretion, or in obedience to the Presbytery, Synod, or General Assembly. They also attend to the temporal wants of the poor connected with the Congregation.

The powers and functions thus generally described are exemplified in detail as follows:—

No Power of Discipline.

1. The Deacons' Court has no power of discipline even over its own members. It can neither admit to the office of Deaconship, nor depose from it. Nor can the resignation of a Deacon be competently received by the Deacons' Court, nor dealt with by them in any way. But the Deacons' Court is entitled to certified extracts from the Minutes of Kirk-Session, in so far as by the admission, removal, suspension, or deposition of office-bearers, these Minutes affect its membership; and any change, of which the Court thus obtain evidence, ought to be recorded.

Roll of Court.

2. After each change in the membership of the Court, a revised Roll of the members ought to be recorded in the Minute.

Management.

3. The members of the Deacons' Court are not necessarily themselves the Local Trustees in whom the congregational property is vested, but the General Assembly approve only of such Title-Deeds as require the Trustees to leave the management in the hands of the Deacons' Court. It is competent and not unusual for the members of the Deacons' Court to be named as the Trustees. A Model Deed for the acceptance of Congregations was approved of and recommended by the General Assembly in 1851.

Management of Funds and Property in Deacons' Court.

Power as to Place of Worship.

4. The Deacons' Court are not entitled to give the use of the place of worship, or of the other ecclesiastical buildings belonging to the Congregation, for any purpose whatever, without the consent of the Minister. They are not entitled to withhold the use of those buildings for meetings of a strictly religious, ecclesiastical, or charitable nature, which have the sanction of the Minister. But no one of those buildings can be made use of, either by the Minister or by any other party, for any meeting which is not strictly of a religious, ecclesiastical, or charitable nature, without the consent of the Deacons' Court.

Repair of Buildings.

5. It is the duty of the Deacons' Court to see that the place of worship and other ecclesiastical buildings are kept in good condition and repair, and to take steps for raising the funds that are needful for this purpose.

Appointment and Dismissal of Beadle.

6. In the discharge of their responsibility, it belongs to the Deacons' Court to appoint and dismiss the Church Officer or Beadle, to whom is intrusted the immediate care of the place of worship. It lies with them also to appoint and dismiss the Doorkeepers and any other parties employed in ministering to the comfort of the Congregation when assembled. It is also the function of the Deacons' Court to fix the Salaries of all these officials.

Precentorship.

7. The Deacons' Court have no jurisdiction over the spiritual order of the house of God, or over the conduct of Public Worship in any of its parts. The appointment of a Percentor does not therefore properly belong to their department. But as the fixing of his Salary lies entirely with them, it is not unreasonable that they should be consulted in his election. The Assembly have passed recommendations upon this subject.

Appropriation of Sittings and Pews.

8. It is the function of the Deacons' Court to appropriate the Sittings and Pews in the place of worship, and to determine all questions relating thereto; such as whether there shall be Seat Rents or not; and if there be Seat Rents, what the rates shall be per Sitting.

Collectors.

9. It is the duty of the Deacons' Court to make the necessary arrangements for carrying out the Acts of Assembly relative to the General Sustentation Fund, by dividing the congregation into districts; by assigning a district to each Deacon; by holding monthly meetings at which the reports of the Deacons (or Collectors) are given in, and the contributions are received and handed over to the Treasurer for transmission to the General Treasurer appointed by the General Assembly. A Deacon may, with the sanction of the Deacons' Court, appoint Collectors to assist him in the district assigned to him, and the Deacons' Court may appoint Collectors who are not Deacons, for districts which have not been placed under an office-bearer. Each Deacon should visit his district from time to time.

Elder may act as Deacon.

10. A Ruling Elder may temporarily act as the Deacon of a district to which no Deacon has been appointed.

11. Both Ruling Elders and Deacons may receive the Sabbath Collections of the people, as may be arranged by the Deacons' Court.

Extraordinary Collections.

12. It is the duty of the Deacons' Court to see that the proceeds of all the Extraordinary Collections appointed by the General Assembly be handed to the appropriate Local Treasurer, and be by him transmitted in due time and order to the General Treasurer appointed by the General Assembly.

Foreign Missions.

13. When a Congregational Association for the support of Foreign Missions has been formed with the sanction of the Kirk-Session and Deacons' Court, it is usual for that Court to sanction also the appointment by the Association of a separate Treasurer for that Fund, who shall be responsible to the Deacons' Court for the receipt and due transmission of the Quarterly Contributions.

14. A Local Treasurer must be appointed by the Deacons' Court to take charge of those Congregational Funds which are applicable to local purposes. It is not unusual for the same Treasurer to take charge also of all the other funds, except of the Contributions raised for the General Sustentation Fund. Local Treasurer.

15. Where Seat Rents exist, and there is debt on the ecclesiastical buildings, the payment of the interest of the debt forms a primary burden upon the Seat-Rent Fund. Seat Rents.

16. It has been enacted by the Assembly, that, after deducting feu-duty, the cost of insurance, the salaries of Beadle and Precentor, Presbyterial, Synodical, and Assembly charges, and the current yearly expenses for the maintenance of Public Worship and the due administration of Gospel Ordinances, also a contribution to the Sustentation Fund when required, an adequate supplement to the Minister's Stipend be provided out of the Congregational Funds, before these funds are held applicable to any other purpose whatsoever. Supplement.

It is required that, after the deductions here mentioned, the Deacons' Court, before applying the proceeds of the ordinary Sabbath Collections to any other purpose, shall first of all consider, from time to time, the question, Whether any, and, if any, how much, addition to the Minister's Stipend should be made out of the Fund thus raised?*

17. After determining the question of Supplement to the Minister, it is the duty of the Deacons' Court to apply the remainder of the Congregational Funds, in fitting proportions, to religious, ecclesiastical, educational, or benevolent objects. Surplus Fund.

18. It is also the function of the Deacons' Court to make special Collections at the church door, as often as may appear to them necessary, for the temporal relief of the poor of the Congregation, and to attend to its distribution. Special Collections.

19. It is their function to advise and instruct the individual Deacons as to their duties in detail. Advice, etc., to Deacons.

20. The approved order of business is the same in substance as that of the Kirk-Session, though varying, according to the difference of the subjects. At the regular monthly Meetings the first business, after the approval of the Minutes, ought to be that of the Contributions to the General Sustentation Fund. Order of Business.

21. It is the duty of the Deacons' Court to see that their Record is kept by their Clerk in the same manner as is required in the case of the Kirk-Session Record. Record.

22. Any member of a Deacons' Court may enter his dissent from any part of their procedure of which he disapproves. And his dissent must be dealt with in the same manner as a simple dissent is dealt with by a Kirk-Session. Dissents.

23. There is no right of regular appeal or complaint to the Kirk-Session, or to any of the Superior Church Courts, against a decision of the Deacons' Court. Their determinations are final, No power of regular Complaint or Appeal.

* The General Assembly has passed legislation on Supplements.

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when they keep within their province, and obey the Acts of the General Assembly.

Petition against Deacons' Court.

24. Any member of a Congregation or of the Kirk-Session may petition the Presbytery against the procedure of the Deacons' Court, on the ground of excess of power, or of disregard to Acts of Assembly. It is competent also for the Presbytery to find that the Deacons' Court have exceeded their power or disregarded the Acts, upon the periodical examination of the Record. The Presbytery may, in either of these cases, require the procedure to be altered, or censure the Deacons' Court, according to the nature of the case. The Deacons' Court may appeal to the Superior Courts; so also may the petitioners against the Deacons' Court's procedure, when the Presbytery reject their Petition.

Extracts.

25. The Deacons' Court are bound to furnish Extracts to parties concerned in their procedure, in the same manner as the Kirk-Session are.

Annual production of Record, Auditing of Accounts, etc.

26. The Record of the Court, with the Treasurer's account of receipt and expenditure, after said account shall have been duly audited by appointment of the Court, must be annually exhibited to the Presbytery of the bounds.

Annual Congregational Meeting.

After the attestation by the Presbytery of the Record and Treasurer's account, a Congregational Meeting should be held, when the Deacons' Court shall present a report of their proceedings for the preceding year, give such information and explanation as may be asked for, and receive any suggestions which may be offered by the members of the Congregation for the consideration of the Court, with reference to the future distribution of the funds; the said Congregational Meeting shall be convened by intimation from the pulpit, and the Minister, if present, shall preside in it.

CHAPTER II.

The Presbytery: its constitution, powers, and functions.

Part I.—*The Constitution and Officials of the Presbytery.*

Membership.

1. A Presbytery consists (1.) of all the Pastors of Congregations within the bounds, Colleagues and Successors being included; (2.) of the Professors of Theology, whose appointed sphere of labour is within the bounds; (3.) of such Ordained Ministers within the bounds, and not having Charges, as may have been received in the capacity of Members thereof by authority of the General Assembly; and (4.) of Representative Elders.

A Presbytery may associate with itself in its deliberations *pro tempore* any ordained Minister who is present, but he cannot vote upon any question before the Court. Ministers and Elders from other Presbyteries may be added as Assessors to a Presbytery by the Synod or the Assembly.

Election of Pastor.

2. The election and calling of a Pastor for any Congregation belong, in the Free Church of Scotland, to the Members of the Congregation in full communion; the mode of election and calling being subject to the regulation of the Church Courts.

3. The following are qualified to become Pastors of Congregations in the Free Church of Scotland:—

Persons qualified for Office of Pastor.

(1.) All persons who have been admitted to the status of Ministers of this Church, and have not lost that status, whether they hold any pastoral charge or not; provided no special limitation as to the acceptance of calls has been attached by the General Assembly to their ordination.

(2.) Those who, without any special limitation attached by the General Assembly to their license, have been licensed by any Presbytery of this Church. Before any one of them can be ordained or admitted to a pastoral charge, the Presbytery of the bounds, or a superior Ecclesiastical Court, must be satisfied with the result of the trials, to which he is subjected after his election and call. These trials are of the same kind as those required from a student before receiving license.

(3.) All other Ministers and Probationers are only eligible who have been admitted to the status of Ministers or Probationers

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of the Free Church of Scotland according to the requirements of the General Assembly.

Professors of Theology.

4. Professors of Theology are appointed by the General Assembly, after the report of a Committee on election of Professors. No one can be appointed a Professor of Theology who is not a Minister or Probationer of the Church. When a Probationer has been appointed, he must be ordained to the office of Theological Professor by the Presbytery of the bounds, in accordance with a special instruction by the General Assembly.

Ruling Elders representing Kirk-Sessions.

5. The election by a Kirk-Session of one of their number, concerning whom they can certify that he is *bona fide* an Acting Elder, besides being otherwise qualified, constitutes him a member of Presbytery and Synod for the current year, or till his successor is elected. The Election must take place within two months from the Spring Meeting of Synod, and the Commission must not bear a later date, except in the cases referred to on p. 9. A Ruling Elder cannot be allowed to take his seat in the Presbytery without a Commission, which is given in the form of an extract from the Minutes of Kirk-Session. This commission is the evidence to the Presbytery that the Ruling Elder named in it is *bona fide* an Acting Elder, is otherwise qualified, and has been duly elected. It may be received and sustained at a *pro re nata* or *in hunc effectum* meeting as well as at an ordinary one. In the event of a Ruling Elder thus commissioned being removed by death, or otherwise vacating his position as Representative Elder, a successor may be elected within one month thereafter.

Locality, Bounds, Name.

6. The locality, the bounds, and the name of a Presbytery are fixed by the authority of the General Assembly. New Presbyteries may be erected, or new arrangements made regarding old ones, as the Assembly may judge expedient. The Assembly also fixes the locality of the Presbytery seat, or the place of its usual meetings, but has allowed Presbyteries to select additional meeting-places.

Presbytery of Foreign Missionaries.

7. When two or more ordained Missionaries are resident at any Foreign Station or in any Foreign District, it is competent for them, in subordination to the General Assembly, to form themselves into a Presbytery, there being always one Ruling Elder a member of any such Presbytery for every Missionary or Minister who belongs to it.

Meetings of Presbytery.

8. The election of Representatives to the General Assembly renders two meetings of Presbytery indispensable in the course of the year. Presbyteries have also the power of meeting when they judge it expedient. But, it is necessary for them, at each ordinary meeting, to resolve when the next ordinary meeting shall be held, to enter the resolution in their Minutes, and to cause public intimation of it to be made. If these requirements be neglected by a Presbytery, its power and functions are held to cease altogether until revived in a constitutional manner.

9. Meetings of Presbytery are of three kinds:—

(*a*) An ordinary Meeting of Presbytery may be described as one which takes place in consequence of an express adjournment for ordinary business from a previous ordinary meeting, or in consequence of an express appointment to the same effect by the General Assembly or the Provincial Synod, or in consequence of the dormant power and functions of the Presbytery having been revived in a constitutional manner. (See Sect. 10.) An Ordinary Meeting.

(*b*) An *in hunc effectum* meeting of Presbytery is a meeting specially appointed by the Presbytery for the transaction of some particular business. This kind of meeting requires that the particular business, and the time and place of meeting, be specified in the minute of the immediately previous ordinary meeting, along with the resolution to meet *in hunc effectum*, and that public intimation thereof be made at that ordinary meeting. No other business can be transacted at an *in hunc effectum* meeting except that for which it has been specially appointed. An *in hunc effectum* Meeting.

(*c*) A *pro re nata* meeting is a meeting called during the interval between one ordinary meeting and another, in consequence of some unexpected business having arisen which requires to be immediately attended to. Such a meeting may be called by the Moderator, either on his own motion, or in consequence of a requisition addressed to him by some of the members. The specific object must be distinctly stated in the circular calling it, and no other business can be transacted at it. The circular must be sent to every member in reasonable time before the day fixed upon. When that day occurs between the meeting of Synod and the first ordinary meeting of Presbytery thereafter, the Moderator in sending the circular must request the Moderators of Kirk-Sessions to intimate it to their Kirk-Sessions, that they may have an opportunity of electing representatives. (See Act VI. 1868.) When the meeting takes place, the Moderator must explain his reasons for calling it, and the Presbytery must pronounce judgment upon his conduct in doing so. If the Moderator decline to call a *pro re nata* meeting after a requisition to do so has been addressed to him, the whole circumstances of the case may be brought before the Presbytery at its next ordinary meeting. Any member absent from a *pro re nata* meeting, may, at the next ordinary meeting, raise the question as to the propriety of its having been called, or as to the manner in which it may have been called. A *pro re nata* Meeting.

10. When from any cause it shall happen that there is no day fixed for the next ordinary meeting of Presbytery, it shall be competent for any three or more of its members to address a requisition to the Moderator to call a meeting of the whole members of Presbytery, for the purpose of naming a day on which the Presbytery shall meet and proceed with ordinary business; the Moderator shall be bound to comply with such a requisition, and to call a meeting to be held on a day not Revival of a Presbytery.

less than ten, or more than fifteen, days from the date of the requisition, by circular letters addressed to every member on the roll of the Presbytery; and that the meeting when held shall be considered as a *pro re nata* meeting, at which no other business can be transacted except the naming of a day for the next ordinary meeting: Provided always, that at the next ensuing meeting of the Provincial Synod the Presbytery shall be bound to explain the causes that have necessitated their adopting this special procedure, and shall be liable to censure if the explanation be unsatisfactory.

No Meeting during sittings of Assembly or Synod.

11. No meeting of Presbytery can be held while either the General Assembly or the Provincial Synod of the district is sitting, except when special leave to that effect has been granted by the Assembly or Synod respectively.

Quorum.

12. Three Members of Presbytery form a quorum, provided two of the members have the status of ordained Ministers.

Validity of Meeting when Elders have been duly elected.

13. When, at the time and in the place appointed for a meeting of Presbytery, two Ministers, and one or more Ruling Elders, duly elected, have convened together, there is a valid meeting of Presbytery; the production of valid commissions by Elders in such circumstances is sufficient evidence of their election.

Commissions to Elders receivable at *in hunc effectum* and *pro re nata* Meetings.

14. Commissions to Ruling Elders may be received at any of the above three kinds of meetings of Presbytery.

Election of Moderator.

15. Every Presbytery elects one of its Ministers as Moderator, at the first ordinary meeting after an ordinary meeting of the Provincial Synod. The course usually followed is to appoint each Minister in succession, as the names stand on a Roll, which is made up according to seniority of Ordination. In the absence of the Moderator, the Minister who previously held the office takes the chair *pro tempore*, and failing him the senior Minister present does so. It is always in the power of the Presbytery to appoint a Minister to act as Moderator *pro tempore*, on any particular occasion. If a Minister take the chair *pro tempore*, whether through ordinary rule or through special appointment, simply in consequence of the Moderator's absence, and the Moderator appear at any stage of the proceedings, he is required to take the chair immediately, and the *pro tempore* occupation of it ceases *ipso facto*.

Moderator has only a casting vote.

16. The Moderator has only a casting vote in case of equality. He is not permitted to take part in any discussion while he occupies the chair, but he may ask leave to vacate the chair for the purpose of expressing his opinion. When this request is granted, the chair is occupied in the meantime as it would be in his absence.

Duties of Moderator.

17. It is the duty of the Moderator to preside in the devotional exercises of the Presbytery, to pronounce the blessing at the close of each Meeting, and to act as the organ of the Presbytery in keeping order, in announcing decisions, in

administering rebukes and admonitions, in instructing parties at the bar, and in calling upon Members to state their views, to give their votes, or to discharge any functions which have been assigned to them. At the Ordination of a Minister, or at the licensing of a Probationer, the acting Moderator puts the appointed questions, offers up the appointed prayers, and delivers the appointed exhortations, unless otherwise arranged by the Presbytery.

Clerks of Presbyteries.

18. The Presbytery appoints one or more Clerks. The Clerk is usually a Member of Presbytery. He may be specially appointed *ad vitam aut culpam:* or he may be simply employed to act as Clerk during the pleasure of the Presbytery. On his appointment he solemnly promises to discharge the duties of the office with fidelity. It is the duty of the Clerk to write regular Minutes of the Presbytery's procedure, to engross the same in a permanent record, after they have been approved of by the Presbytery as correct, to give such extracts to parties as the Presbytery have allowed, and to take charge of all the Presbytery's papers, books, and documents. In the absence of the Clerk some one is appointed by the Presbytery to act as Clerk *pro tempore*. The fact of his appointment should be entered in the Minute, and the Minute should be signed by him as Clerk *pro tempore*. The Clerk of Presbytery has usually a salary drawn from contributions by the congregations within the bounds, and from fees paid for extracts. These contributions and fees are regulated by each Presbytery for itself.

Opening and closing.

19. Every meeting of Presbytery is both opened and closed with prayer. The usual and approved practice is to open every ordinary meeting with the full devotional exercises of praise, reading of the Scriptures, and prayer following. The Minute must always bear at the outset that the Presbytery was constituted (which expression is understood to imply that it was constituted with prayer, and that a sufficient sederunt has been ascertained), and at the end, that the meeting was closed with prayer. No Minute can be sustained as valid if it does not mention these two particulars. No extract from the Minutes can be received which does not bear that the Presbytery was constituted, and which is not certified by the Presbytery Clerk as having been extracted by him from the Records of the Presbytery.

Minutes.

Approval of Minutes.

20. After ascertaining that there is a sufficient quorum of attendance, and before proceeding to any other business, the Presbytery must, at each ordinary meeting, hear the Minutes of the last ordinary meeting, and the Minutes of any intervening *in hunc effectum* or *pro re nata* meeting, read by the Clerk. The Presbytery must then either approve of these Minutes as read, or correct them, and approve of them as corrected. They cannot afterwards be altered, except by the authority of a higher Court. The Minutes of any proceedings which have taken place when the Presbytery were alone are not of necessity read or approved of

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until the Presbytery are again alone at an ordinary meeting. The approval or correcting of the Minutes does not imply any power to alter the *res gestæ* of the meeting. The only question is the correctness of the Minute as a true account of what was done. The Minute of each Meeting or Sederunt must, after it has been approved of and engrossed in the permanent Record, be signed by the Moderator and Clerk. Any person who has acted either as Moderator or Clerk during a portion of a Sederunt, ought to sign the Minute of that Sederunt, as Moderator or Clerk *pro tempore*, in addition to the signature of the other person occupying either office. The Sederunt of every Meeting (that is, the names of all the Members present) must be accurately recorded in the Minute.

Openness of the Court.

21. The Presbytery is, by long-established practice, an open Court. It is held desirable that this Court should be open with respect to all ordinary matters that occupy their attention. But they have the power of closing their doors, and declaring their wish to be alone, when they judge it more for edification. In case of their abusing this power, the abuse may be corrected by the Synod or the General Assembly. They usually sit in private when dealing with cases of discipline that involve charges or proofs of scandal, if the publication of those charges or proofs might be injurious to justice or purity. They are bound by Act of Assembly to be alone when students are proposed for trial, and when the private trials of students are going on.

Officer.

22. The Presbytery appoint an Officer, who is in attendance at their meetings, and executes their orders. At his appointment he promises to perform the duties of the office with fidelity. He has a salary arising from contributions by the congregations, and regulated by the Presbytery.

Roll of Members.

23. It is needful that an accurate Roll of the Members of Presbytery be kept by the Clerk as authorized by the Presbytery, and that it be corrected regularly on the occurrence of changes. The names of the Ministers ought to be in the order of ordination, and the state of it ought to be carefully recorded in the Minutes.

PART II.—*Powers and Functions of the Presbytery.*

Scriptural and Constitutional position of the Presbytery.

The Presbytery is the radical court of the Church, or that from which the whole Presbyterian government derives its form.

Three Divisions of Functions.

The functions of a Presbytery may be comprehended under three Divisions, viz.: the Division embracing the department of original action; the Division embracing the department of review; and the Division embracing special relations to the Superior Courts.

Division I.—Department of Original Action.

1. The Presbytery possesses inherently the function of deciding whether young men are qualified or not to be received

into the number of enrolled students of theology, with a view to the pastoral office. It has also the function of examining them as to their qualifications at any stage of their progress; of determining, in due time after examination, whether they may be licensed to preach the Gospel or not, and of licensing them if they be found qualified. In the Free Church of Scotland, the exercise of these functions by the Presbytery is regulated by Acts of the General Assembly.

Power as to Licensing, Ordaining, etc.

2. A Presbytery cannot proceed to the trials of a student for license without due notice having been given to the several Presbyteries of the Church in a specified manner.

Legislation as to Students and Licentiates.

3. It is the usual practice for the Presbytery to proceed toward the immediate licensing of a student to preach the Gospel at the same meeting at which they have been satisfied with his trials upon a conjunct view of them. After this final judgment in his favour has been arrived at, the Moderator proceeds, in the name of the Presbytery, to put the questions required by the Act of Assembly; and, satisfactory answers having been obtained, he, in the name and by authority of the Presbytery, solemnly licenses the student to preach the Gospel within the bounds of the Presbytery, and wherever else his lot may be cast in the course of God's Providence. Thereafter the Moderator addresses the newly-licensed preacher in suitable terms, and the Presbytery then engage in prayer, the Moderator conducting the devotions. At the conclusion of the procedure, the Moderator and other members give the right hand of fellowship to the Licentiate, and he is required to subscribe the Formula in presence of the Presbytery.

Oversight of Vacant Congregations.

4. It is the duty of the Presbytery to see that ordinances are duly administered and discipline upheld in any congregation that may be vacant; to appoint one of their number as interim Moderator of its Kirk-Session; and to carry out the laws of the Church as to filling up the vacancy.

Duties of Interim Moderator.

5. He possesses the authority and executes all the functions of the stated pastor, except that it does not appear to be his duty to take any charge of convening the Deacons' Court, that duty being expressly assigned to the Clerk of the Deacons' Court during a vacancy in the pastoral office.

Declaration of Vacancy.

6. The old practice, in the case of a vacancy in the pastoral office by the death of the Minister, was for the brethren attending the funeral to assemble after it, and to appoint some one of their number to preach in the church on the next immediate Sabbath, and to declare the church vacant from the day of the Minister's death. It was also the practice of the brethren on such an occasion to settle among themselves how the vacant pulpit should be supplied till the next meeting of Presbytery, to make a minute of their proceedings, and to report them to the Presbytery.

7. In the case of a vacancy in the pastoral office in any

congregation included in the number of those who receive the Equal Dividend from the Sustentation Fund, but whose contributions to that Fund are not sufficient to provide the amount of the Equal Dividend, it is required that the Presbytery, or a Committee of their number authorized by them, make a report respecting the vacancy to a special Committee of Assembly, and that the report contain such particulars as may enable the Committee to judge whether it ought or ought not to be continued on the Platform (as it is called) of the Equal Dividend. The enactments relative to this matter, defining the powers of the Committee and the Presbytery regarding it, and exhibiting the whole procedure to be adopted in it, will be found in the Appendix. (Act VI. Assembly 1861.) It is also provided by Act VI. Assemby 1867 that these enactments shall apply to cases in which applications are made for the appointment of Colleagues and Successors. By that Act the Commission in March is required to transmit such applications tc the Committee on the Platform of the Equal Dividend.

Relations of Vacant Congregations to Sustentation Fund and Equal Dividend Platform.

Request for Moderation of Call.

8. When a Congregation of a sanctioned charge have elected a Minister, it is usual for them to appoint a Deputation to represent them at the bar of the Presbytery, and to convey their desire that the Presbytery would moderate in a Call. It is usual for the Interim Moderator of Session to make a report to the Presbytery respecting the condition of the Congregation, the amount of their agreement as to the choice of a pastor, and their ripeness for calling one. If this report be unsatisfactory, or if the Presbytery have otherwise good reason to fear that a sufficiently harmonious call cannot be obtained, they are called upon to proceed in accordance with Section 7 of Act IV. Assembly 1859.

Examination as to working for Sustentation Fund.

9. If no want of harmony interfere to prevent the Presbytery from moderating in a Call, the Presbytery, or a Committee of their number authorised by them (Act XVII. Assembly 1881), are required to examine into the working of the Association in the congregation for the support of the Sustentation Fund, and to make a report on the subject to the Committee of Assembly for that Fund. The Presbytery are prohibited from moderating in the Call until the Committee have given their judgment. If the Committee do not sanction the filling up of the charge, the Presbytery cannot proceed, but must refer the matter for advice or decision to the Assembly or its Commission. (See Act III. Assembly 1851.)

Moderation of Call.

10. When a Presbytery are prepared to moderate in a Call, they fix a day and hour for doing so. Notice of the day and hour and intended procedure must be given from the pulpit of the vacant congregation by a Minister whom the Presbytery have appointed for the purpose, seven days intervening between the notice and the day appointed. The Presbytery must moderate in a Call at large, except in cases in which clear intimation is given of an harmonious desire for a person named. At the

specified time the Presbytery meet in the church of the vacant charge, and after it has been ascertained that the notice was duly given, the Moderator (either ordinary or *ad interim*) conducts worship and preaches. At the close of worship he states the object of the meeting. The form of a Call is produced and read, sometimes with a space for the name of the person to be called left blank, and sometimes with the name of the person inserted upon whose election the congregation have already agreed. The Congregation are then asked, in the former case, whose name they desire to have inserted in the Call. When the Call has been agreed to, the persons present whose names are on the Communion Roll are invited to come forward and adhibit their signatures. Act III. Assembly 1879 declares and enacts that at any meeting of a Congregation for the election of a Minister, no vote shall be allowed or recorded unless the vote is given by a member of the Congregation who is personally present, and that when a Call at large is moderated in, it shall only be subscribed by those who personally adhibit their names; but that when a Call is moderated in to an individual whose name is in the edict announcing the moderation, the Call may be subscribed on behalf of members not present when a mandate authorising such subscription is produced. The Communion Roll, as specially adjusted and attested by the Kirk-Session, with a view to election, ought to be produced at the time of moderating in the Call, in order that no one may be permitted to subscribe the Call as a communicant whose name does not appear upon that roll. (See Act IV. Assembly 1859, section 9.) After the Call has been subscribed by all the communicants and adherents present who desire to subscribe it, or by mandatories, the Moderator attests it as thus subscribed. If it has been subscribed by a large number of members on the roll in proportion to the whole number, and if there be no dissents given in, the Presbytery sustain it in ordinary cases. If there be dissents implying a serious division in the congregation, the Call cannot be sustained or found sufficient unless it be signed by a majority of the whole members on the roll, whether present or absent. Even in that case the Presbytery may find it necessary to refer the matter to the Superior Courts. But (Act II. 1886) no appeal sists procedure until a Presbytery has moderated in and sustained a Call.

Production of Roll.

Dissents from Call.

11. If the Call be sustained at the time when it has been moderated in, and if the person called be a Probationer or a qualified Minister without any fixed charge, and if he be present, the Call is put into his hands, and he is asked whether he accepts of it or not. If he be absent, it is sent to him with all convenient speed. But previously to sending it, the Presbytery may intrust it to the Kirk-Session to procure additional signatures.

Acceptance of Call by Probationer, etc.

12. Dissents from a Call can be received only when they are

tendered or given in immediately after the Call has been attested by the Moderator. If they be accompanied by specification of reasons, either against the suitableness of the person called for filling the particular vacancy, or against the proposed settlement, they must be judged on by the Presbytery, either at that meeting or at a special adjourned meeting held for the purpose. The fullest opportunity must be given to the members on the roll for stating their objections of any kind. When the objections require special investigation, the consideration of them must be adjourned, and they must be considered at a subsequent meeting, to which all parties are summoned *apud acta*, that is, they are summoned through announcement made to them in open court by the Moderator or the Clerk before the business of moderating in the Call is closed.

Opportunity for Reasons against Call.

Necessity of Libel as to some Objections.

13. If the objections do not affect the moral character or the orthodoxy of the Probationer or Minister to whom the Call is addressed, the Presbytery may judge of them, and come to a determination respecting their validity, after hearing all parties, and taking such evidence as they may procure or think needful, without adopting such formal procedure as is requisite when grave personal charges are brought forward. But when an objection made is seen to involve such a charge—that is, any charge affecting the orthodoxy or moral character of a Minister or Probationer, the Presbytery must insist upon the objectors either framing a libel and proceeding with it in the usual form, or abandoning the objection. Of course, if a *fama* were found by the Presbytery to prevail against the person called, it might be necessary to suspend procedure until they have disposed of it, even though no objectors should take the responsibility of framing a libel.

Judgment against Call.

14. The Presbytery may decline to sustain the Call, either on the ground of the *number* of dissents without reasons, or on the ground of the *weight* due to the reasons or objections adduced. If any such judgment of the Presbytery be neither appealed from nor complained against in due form, or if the judgment be affirmed by the Superior Court, the whole proceedings as to the particular Call in question fall to the ground, and a new election must take place.

Trial of a Probationer called.

15. If the Call be to a Probationer, the Presbytery take him on trials, as it is called. They prescribe to him trials of precisely the same kind with the public trials for License, viz.—five discourses, and examination in Hebrew, Greek, Divinity, Chronology, and Church History. If the Presbytery sustain these trials without appeal or complaint, or if their judgment sustaining them be affirmed by the Superior Court, or if they do not sustain the trials, and their judgment be reversed by the Superior Court, the Presbytery are in circumstances for immediately fixing the day on which the induction and ordination shall take place. If, after these trials, the Probationer called be not found qualified,

and the Presbytery decline to sustain the trials, they ought to frame their Minute so as to put the Superior Court in clear and full possession of the grounds on which their judgment proceeds, and to enable a person appealing or complaining to state with distinctness his reasons of appeal or complaint. These grounds must not involve any charge of heresy, because *that*, if alleged and maintained, can be proceeded with only by libel. If the judgment of a Presbytery declining to sustain trials for ordination be not appealed or complained against in due form, or if it be not reversed by the Superior Court after appeal or complaint, intimation must be made to the Congregation that the Probationer called has not been found qualified, and that a new election must take place.

Immediate Induction of Ordained Minister called.

16. If the Call, which is sustained and accepted of, be to an ordained Minister not having a fixed pastoral charge, and not being a Professor of Theology, no trials being required, and there being no other ecclesiastical impediment, the Presbytery may proceed without delay to appoint the day for the induction.

Commissioners to prosecute Translation.

17. If the sustained Call be to the ordained Pastor of a Congregation in another Presbytery of the Free Church of Scotland, the induction cannot be proceeded with until a judgment has been obtained in favour of the Translation, either from the Presbytery within whose bounds that Congregation is situated, or from the Superior Court which has jurisdiction over that Presbytery. In the case of every such Call, the Presbytery immediately after sustaining it, or immediately after knowing officially that their judgment sustaining it has been affirmed by the Superior Court, proceed to commission certain of their members to prosecute the Call. The Presbytery also draw up Reasons of Translation (to be signed by the Commissioners in name of the Presbytery), and instruct the Commissioners to transmit these in writing to the other Presbytery, along with all needful documents and minutes, of which the Clerk is instructed to furnish certified copies or extracts, with the exception of the Call, which must itself be transmitted to the other Presbytery. The Congregation calling also appoint certain persons as their Commissioners. The Commissioners of the Presbytery are expected to ascertain by correspondence when the first ordinary meeting of the other Presbytery will take place. Act I. 1897 provides that, when a Presbytery has sustained a Call to a Minister of a Free Church congregation within Scotland, the Presbytery-Clerk shall forthwith send intimation of the fact to the Clerk of the Presbytery, to which the Minister belongs, who shall forward said intimation to the Minister, and also to the Clerk of his Kirk-Session; and this intimation shall be sufficient warrant for the Session taking steps to have the Office-bearers and congregation represented at the first meeting of Presbytery at which the Call is laid on the table, so that it may, if desired, be finally disposed of at that meeting.

Proceeding in Translation before another Presbytery.

18. Unless the procedure above indicated is adopted nothing further is done by a Presbytery of the Free Church of Scotland, at the time when a Call is brought before it, than to summon all parties to a future meeting. The Commissioners and the Minister called, if present, are summoned *apud acta*. The Minister, if absent, ought to be specially and duly summoned in writing, with intimation of the Call addressed to him. The Reasons of Translation, or a copy of them, certified by the Clerk of their own Presbytery, must be transmitted to the Congregation of which the Minister is Pastor, that they may reply to them, if they see cause. Either the Minister himself, or some other Minister, being a member of Presbytery, ought to be instructed to intimate to that Congregation that the Call from the other Congregation has been addressed to him, that it has been laid on the Table of his Presbytery with Reasons of Translation, which they will have an opportunity of considering, and that they are hereby summoned to appear by their Commissioners at the bar of the Presbytery to state any answers they may have to give to the Reasons for Translation.

19. On the day and at the hour appointed, the Presbytery having met, all the parties are called. The order of procedure in the hearing of parties and in the discussion of the case by the Presbytery is in accordance with general rules of order that have a more extended application; it being understood that the parties prosecuting the Translation hold the same position as to opening the case and the right of reply, which belongs to appellants and complainers in cases from Kirk-Sessions. (See Div. II. Sect. 4.)

Minister called heard at any stage, etc.

The only peculiarities are that the Minister called is entitled to be heard at any stage of the proceedings whatever, if he express a wish to that effect; and that he must be asked to declare his mind immediately after the hearing of the other parties at the bar has been concluded. After engaging in prayer, the Presbytery decide, in the first instance, either that the Translation is expedient, and that the Call ought to be presented to the Minister; or that the Translation is not expedient, and that the Call ought not to be presented to him. If the decision be in the affirmative, and there be no appeal or complaint, and if thereafter the Minister, acquiescing in the decision, accept of the Call, the Presbytery then give formal judgment to the effect that they agree to the Translation, and appoint the Minister to await in that matter the orders of the other Presbytery. (See Act VI. Assembly 1849.)

Terms of Decision.

Proceedings in Case of Complaint or Appeal.

20. If there be an appeal or complaint intimated against a decision in favour of a Translation, the Presbytery who have come to that decision ought to instruct their Clerk to intimate to the other Presbytery, through their Clerk, whether Reasons of Appeal or Complaint have been lodged in due time or not, and also to intimate to them immediately the fact of the appeal or

complaint being otherwise fallen from, if that should occur at any period after the Reasons have been duly lodged.

21. The Commissioners of a Presbytery for the prosecution of a Translation must report at the first ordinary meeting of their own Presbytery, subsequent to that meeting of the Presbytery having jurisdiction over the Minister proposed to be translated, at which a decision has been come to on the question of Translation, what the decision is, and whether it be appealed or complained against or not. If the decision has been in favour of the Translation, and there is an appeal or a complaint, with reasons, lodged in due time (of which the Presbytery prosecuting the Call must hear from the Clerk of the other Presbytery), no further step can be taken towards the induction until a judgment on the appeal or complaint shall have been given by the Superior Court. But if it be certified to the Presbytery prosecuting the Call by the Clerk of the other Presbytery, that reasons of appeal or complaint have not been lodged in due time, or that the appeal or complaint has been subsequently fallen from, or if the Superior Court shall, in due form, have intimated or caused to be intimated to the Presbytery prosecuting the Call, that they have dismissed the appeal or complaint, and affirmed the sentence in favour of the Translation, then the Presbytery prosecuting the Call are placed in circumstances to enable them to fix a day for the induction.

22. If the decision of the Presbytery having jurisdiction over the Minister proposed to be translated be adverse to the Translation, it is competent and usual for the Commissioners of the Presbytery prosecuting the Call to take an appeal against the decision, leaving it to their own Presbytery to determine whether the appeal shall be prosecuted or fallen from. The Commissioners in their report mention that they have done so, and also whether any appeal was taken by the Congregation calling, and whether any dissent and complaint were taken by any member of the other Presbytery. If the meeting at which the report can be made take place within ten days from the meeting of the other Presbytery at which the decision has been given, the Commissioners usually leave it to their Presbytery to authorise them to lodge reasons of appeal or not, as the Presbytery may think fit. If there be no meeting in time for this purpose, the Commissioners ought to lodge reasons, it being always in the power of the Presbytery to fall from the appeal, and to intimate to the other Presbytery that they have done so. The Presbytery come to such judgment on the report of their Commissioners as they think most expedient. If they continue to prosecute that appeal, or if the Congregation calling continue to prosecute an appeal on their own part, or if any member of the other Presbytery continues to prosecute his dissent or complaint, no further step toward the filling up of the vacancy can be taken until a decision be obtained from the Superior Court. But if the Presbytery fall

from their appeal, and if no other appeal and no complaint be prosecuted, or if the Superior Court intimate that they have affirmed the adverse decision, the Presbytery must intimate to the Congregation in due form the necessity of steps being taken for a new election.

Call to Minister of Charge in same Presbytery.

23. If a sustained call be to an ordained Pastor of a charge within the bounds of the same Presbytery which has sustained the Call, the procedure is the same in principle with that adopted in the case already detailed. The complication of Commissioners from one Presbytery to another is avoided. In sustaining the Call, the Presbytery take care not to commit themselves to the propriety of the Translation. Due intimation is given to the Minister called, and to his present Congregation, as in the other case. Commissioners from both Congregations appear at the bar of the Presbytery on the appointed day. The Presbytery proceed in terms of the Act VI. Assembly 1849.

Call to a Professor.

24. If a sustained Call be to a Principal or Professor in a Theological Hall of the Free Church of Scotland, it would seem that such a case must be brought in due form before the Presbytery of the bounds within which the Theological Hall is situated, and that due notice should be given to all parties concerned, with opportunity to appear and state their views at the bar of the Presbytery, as in the case of an ordinary translation. But it is very doubtful whether any Presbytery would consider itself warranted in agreeing to such a Translation, without referring the case to the Synod or Assembly, and whether any Synod would consider itself warranted in disposing of it, without referring it to the Assembly.

Serving of Edict.

25. When, all obstructions having been removed out of the way, a Presbytery are prepared to fix a day for the ordination and induction of a Probationer, or for the induction of a previously ordained Minister, it is their duty to appoint one of the Ministers included in their number to occupy the pulpit of the vacant charge on a particular Sabbath, and then and there to serve the edict. They at the same time fix the day and hour for the ordination and induction, or for the induction alone, as the case may be, so that it shall occur at an interval of not less than seven days from the serving of the edict. By the edict, public intimation is made that the day and hour named have been appointed for this purpose, and that the Presbytery will proceed in due form to the settlement, if no objection to the life or doctrine of the Probationer or Minister be previously brought forward and substantiated. It is also intimated that the Presbytery will meet at a specified time, and at the Church, for the purpose of ascertaining whether any such objections will be brought forward and substantiated, or not. The usual practice is to hold this meeting at an hour not long before that fixed upon for the settlement.

26. At the time named in the edict, the Presbytery, having

been constituted, call for what is designated 'the return of the edict,' an expression which implies a report by the officiating Minister that it has been duly served. They then cause their officer to make proclamation at the most patent door of the Church, in terms of the edict, and to report that he has done so. Any objections at this last stage must be substantiated immediately to the satisfaction of the Presbytery. A formal libel is not required; substantiated objections would arrest procedure. The bringing forward of objections in connection with the edict is a rare occurrence. When no objections are given in, or when they cannot be proved *instanter*, it is the duty of the Presbytery to proceed with the ordination and induction, or with the induction alone, according to appointment.

Objections at last Stage.

27. In proceeding to an ordination or induction, the Moderator conducts public worship in the usual manner. At the close of it he reads a narrative of the proceedings since the occurrence of the vacancy, with reference to the filling of it up. He then calls upon the Pastor-elect, who stands and answers the appointed questions, and is then required, by Act II. 1874, to subscribe the Formula, in presence of the Congregation. The answers having been satisfactory and the Formula having been signed, the Pastor-elect, if a Probationer, kneels, and the Moderator, coming down from the pulpit, ordains him to the ministry with solemn prayer and imposition of hands. It is the practice for all Ministers present to stand around and lay their hands on his head. The ordination prayer having been concluded, the Moderator formally receives and admits the new Minister, in the name of the Presbytery, and by authority of the Divine Head of the Church, to the pastoral charge of the Congregation, and, along with the other members of Presbytery, gives him the right hand of fellowship. Thereafter the Moderator returns to the pulpit. In the case of a previously ordained Minister, the Moderator does not leave the pulpit, except to give the right hand of fellowship; but, immediately after obtaining satisfactory answers to the questions, and after the signature of the Formula, he receives and admits the Minister to the pastoral charge. It is usual for the admission, in this case, to be preceded or followed by prayer. In both cases, the Moderator in conclusion delivers a suitable address (1) to the newly-admitted Pastor, and (2) to the people. In some cases, these addresses have been delivered by other members of Presbytery, specially appointed for the purpose. But the old and most approved practice is for the Moderator to conduct the whole services. At the close of public worship the people have an opportunity of welcoming their Minister on retiring from the Church. Thereafter his name is added to the roll before the adjournment of the Presbytery.

Proceedings at Ordinations and Inductions.

28. It is the duty of a Presbytery, after inducting to a charge within their bounds the Minister of a charge under the jurisdiction of another Presbytery, belonging to the Free Church of Scot-

Intimation to other Presbyteries.

land, to give immediate intimation through their Clerk to that Presbytery that the induction has taken place.

Ordination to Colonies, Missions, etc.

29. Ordination, without reference to a particular pastoral charge, or without reference, at least, to some position or function held to be equivalent to that of a particular pastoral charge, is contrary to the practice of the Church. But a Presbytery in Scotland may be called upon to ordain a Probationer who has been appointed to a pastoral charge overseas, when there is no local Presbytery having jurisdiction over that charge; and, in similar circumstances, Missionaries to foreign parts are ordained before they proceed to their spheres of labour. In either of these cases, it is the duty of the Presbytery to satisfy themselves with respect to the nature of the appointment, the position of the parties making it, the sphere of action proposed to be entered on, and the provision arranged or in prospect for the due support of the Minister or Missionary, after he has entered on it. If they be satisfied regarding these points, it is competent for them to proceed. So far as trials and the act of ordination are concerned, they must take the same steps as in ordinary cases. The serving of an edict in the usual manner is of course dispensed with. But consistency of principle would seem to require public notice of the Presbytery's intention to be duly given, that any one may have sufficient opportunity to bring forward and substantiate an objection to the life or doctrine of the person proposed to be ordained.

Induction of Professors.

30. Professors of Theology, having been previously appointed by the General Assembly (see Part I. Sect. 4, and Chap. IV. Part II. Sect. 14), are inducted to their offices by the Presbyteries of the bounds in the same manner in which Ministers are inducted into their charges (see Act V. Assembly 1852). Before ordaining a Probationer who has been appointed a Professor, the Presbytery must subject him to the usual trials for ordination. In such a case, they must consider the adaptation of his gifts for the Professorship which he is called to occupy, in order that, being found qualified for the particular office, he may be ordained a Minister of the Gospel with a view to his induction. In discharging this part of their duty, they must, of course, give all due weight to the fact that he has been already selected by the Supreme Court of the Church to occupy the Professorship.

Function as to Applications for Colleagues and Successors, etc.

31. It lies with the Presbytery within whose jurisdiction a pastoral charge is situated, to receive, in the first instance, any representation for the appointment of a Colleague and Successor to the Pastor of that charge. Such a representation may be based either upon the partial inability of the Pastor to discharge his functions, through age or infirmity, or both; or upon special considerations connected with the character and circumstances of the charge. It must proceed from the Congregation, with consent of the Pastor himself. It should be intimated by means of Minutes, of Session, Deacons' Court, and congregational

meetings. Competent evidence must accompany the representation, with respect to the alleged grounds of it. For example, if the ground be the state of the Minister's health and strength, sufficient medical testimony must be produced. If, in order to carry out the contemplated appointment, assistance be asked from the Aged and Infirm Ministers' Fund, this request, and the grounds of it, must be brought before the Presbytery, along with the representation on the subject of a Colleague and Successor. When all the materials for judgment in any such case have been fully set before the Presbytery, and parties have been regularly heard on the subject at the bar, the Presbytery are called upon to give a deliverance with respect to the suitableness, practicability, and desirableness of the proposed appointment, viewed in connection with the pecuniary and other arrangements by which the Congregation and the Minister wish to have it accompanied. All these arrangements must be taken into very careful consideration in coming to a judgment.

32. The Presbytery cannot give effect to their own judgment with reference to allowing a Congregation the liberty of calling a Colleague and Successor to its Pastor; but that judgment must take the form of a recommendation and application to the General Assembly. (See Division III. Sect. 5, and Appendix III. 3.) On this account, it is needful that the representations and requests from the Congregation be brought to the Presbytery in time to enable them to dispose of the matter, with a view to having the application and all needful documents transmitted to the Clerk of Assembly on or before the last Wednesday of February, and presented to the Ordinary Commission of Assembly at its meeting on the first Wednesday of March in each year. (See Act VIII. 1862.)

Time for bringing Application to Presbytery.

33. The subject of pecuniary provisions for the support of Colleagues and Successors, as well as of aged and infirm Ministers, is very exactly regulated by Acts of Assembly, and may be most usefully exhibited in a separate form through a section of the Appendix.

Pecuniary Provisions for Colleagues, etc.

34. After the General Assembly have granted leave to a Congregation to call a Colleague and Successor to their Pastor, and before the actual calling and induction of one, an agreement may be come to between the parties, viz. the Pastor, the Session, the Deacons' Court, and the Congregation, with respect to the share which the senior Pastor shall continue to occupy in the duties and privileges of the pastorate. This agreement may be competently sanctioned by the Presbytery, and recorded in their Minutes. But, apart from such agreement, the senior Pastor is always entitled to take into his own hands an equal share of the work with his Colleague, and to alternate with him in the exercise of every function belonging to the office of Pastor, except in so far as the General Assembly may have expressly limited his sphere of action. Any limitation is, for the most part, left to

Sanction of Agreement between Parties.

be arranged by agreement under the view of the Presbytery. And such agreement, if intimated to the person elected as Colleague and Successor, before he has accepted of the Call, may be held binding upon him as well as upon the other parties. The matter is often harmoniously and happily arranged between the colleagues personally, without any more formal adjustment. The Minutes of Session, or of Deacons' Court, or of Congregational Meetings, or of Presbytery, which have been acquiesced in by all parties, may sometimes be such as to involve the practical retirement of the senior Pastor from all interference with the affairs of the Congregation. But if the General Assembly have simply granted leave to the Congregation to call a Colleague and Successor to their Pastor, the latter has still a right to his seat in the Church Courts, and to every other privilege of his office, which he has not consented to relinquish. In all cases in which no special agreement has been minuted before the settlement of a Colleague and Successor, it is understood that the junior Colleague is prepared to undertake the whole pastoral and pulpit duty, or any portion of it, however great, as soon as it has been ascertained that the age or infirmities of the senior Colleague prevent him from undertaking any portion, or more than a small portion, of it.

Platform of Equal Dividend.

35. It was determined by Act III. Assembly 1865 that all cases of applications for Colleagues and Successors, in Congregations that are not self-supporting by their contributions to the Sustentation Fund, must be brought under the view of the Committee on the Platform of the Equal Dividend, in the same manner as if they were cases of vacancies, according to Act VI. 1861.

36. In all other respects, the course of procedure by the Presbytery, with reference to the ordination and induction, or the induction alone, of a Colleague and Successor, is the same as that already detailed in the case of a vacant charge.

Resignations of Ministers.

37. A Minister who wishes to resign his pastoral charge, from ill-health, old age, or other circumstances not affecting his ministerial character, must tender his resignation to the Presbytery under whose jurisdiction he is placed. The Presbytery, either when alone, or through a Committee, deal with him as to the reasons of the proposed resignation. It is also reasonable that due notice should be given to the Congregation of what is intended by their Pastor. If the Presbytery find the alleged reasons unsatisfactory, or if any circumstance or *fama* be made known to them which requires investigation, they cannot accept of the resignation until it be ascertained that there is no ground for bringing their brother under the censures of the Church. But if nothing objectionable appear with respect to his procedure, and they find him continuing to be conscientiously persuaded that it is his duty to follow out his intention, it is their duty to accept of his resignation, and to take immediate steps for declaring the pastoral charge of his Congregation vacant.

38. Ministers who have thus retired from their charges are accounted *emeriti*. They are not members of Presbytery unless expressly allowed to be so by a specific deliverance of the General Assembly; but they retain their *status*, and may be employed in any work belonging to that *status* which they are capable of performing. Position of *Emeriti* Ministers.

All Ministers not having pastoral Charges are eligible as Ruling Elders in the Congregations to which they attach themselves as communicants.

39. It lies with the Presbytery to consider the merits of any case within their bounds, in which pecuniary aid is sought to enable a Congregation to provide an aged and infirm Minister with an Assistant. They are called upon to find either that the case ought, or that it ought not, to be entertained favourably. If their finding be in its favour, they are called upon to transmit an application on its behalf to the Assembly. Such cases must be laid before the Presbytery in time to have the applications considered and transmitted to the Clerk of Assembly a week previously to the Meeting of Commission, on the first Wednesday of March. (See Act XI. 1863.) Aid for Assistants.

40. It is held to be the duty of Presbyteries to deal with the members in a friendly manner with respect to their shortcomings, so as to avert, by timely admonition, the necessity of more formal procedure at a future date. It is still held to be the duty of the brethren to stir one another up in the common faith. Privy Censures.

41. The solemn function belongs to the Presbytery, in the exercise of discipline, to pronounce sentence of suspension or deposition against a Minister or a Probationer under their jurisdiction, when they find it necessary to do so, in accordance with the Word of God, and with the Rules of the Church. It is also their province, when they find occasion, to make use of less severe censures, such as public or specially serious admonition or rebuke. Suspension or Deposition. Censures, etc.

42. Although the Free Church of Scotland gives no encouragement to the exercise of the functions of the pastoral office by persons not set apart to that office, she has permitted the employment of persons as Readers or Catechists. The persons selected for this purpose have, for the most part, been Elders, Students of Theology, or Teachers. The General Assembly has expressly declared that there was no intention, by the permission and requirements as to Readers or Catechists, of instituting a permanent or distinct office, but that the design was simply to regulate, in an orderly way, the needful provision for special circumstances. Besides this the Assembly approved of a system of exhorters and of "Ordained Preachers," under special Regulations. Readers and Catechists.

43. A Congregation for the regular worship of God, and the preaching of the Gospel, may be formed and kept up under the superintendence of the Presbytery, without its having been Preaching Stations.

constituted as a pastoral charge. Where no Kirk-Session has been formed in connection with a Station, sealing ordinances can be dispensed in it only through express appointment by the Presbytery, unless the Congregation have been regularly placed under the jurisdiction of a neighbouring Kirk-Session. If the authority of the Presbytery be required, they appoint a Minister to preside, aided by certain elders, whom they name.

Kirk-Sessions at Stations, etc.

44. According to Act XIII. 1863, it remains with Presbyteries to arrange in regard to the appointment of Elders and the establishment of Kirk-Sessions for local discipline and management in Preaching Stations within their bounds, it being understood that a Minister of the Presbytery shall act as the Moderator of every such Kirk-Session. Whenever the Presbytery deem it expedient, the elders of such Stations may still be connected with regularly established Kirk-Sessions.

Sanctioning of Pastoral Charges.

45. The recognition of a Congregation as entitled to the position of a Pastoral Charge, so as to be enabled to call a person to be their Pastor, belongs properly, and in its spiritual aspect, to the Presbytery of the bounds; their judgment, of course, on this, as well as on every other question, being subject to review by means of appeal or complaint. But the upholding of the Free Church of Scotland, dependent in so many ways upon Central Funds, has made it requisite that in some matters general rules should be observed, which can be more efficiently and consistently maintained by the authority of the General Assembly than by the Presbyteries separately. The addition of pastoral charges in any part of the Church is one of these matters. It has, accordingly, been decided by the General Assembly, with consent of a majority of Presbyteries, that, after a Presbytery has formed an opinion in favour of the admission of a new Congregation as a pastoral charge, it shall record and transmit its opinion, along with a full statement of the case, for the consideration of the General Assembly, who alone shall have the power of sanctioning the Charge.

Special Diets of Worship, Collections, etc.

46. The Presbytery has inherently the power of appointing special diets of worship to be held; special fast-days and special days of thanksgiving to be observed; and special collections for particular objects to be made, in all the Congregations under its jurisdiction. But this power requires to be exercised with great discretion and abstinence, partly for the sake of avoiding undue interference with the judgment of Kirk-Sessions, founded upon local knowledge, and partly from the relation of the Presbytery to the Superior Courts, and the arrangements of the General Assembly. It thus becomes necessary in a Church so extended and so systematically ordered as the Free Church of Scotland, that the inherent functions of Presbyteries in the matters here referred to should be very rarely put into independent operation, even when they are not restrained by positive Acts or instructions of the General Assembly. But the Presbytery is entitled, both

by the inherent character of its relation to the several Congregations within its bounds, and by long-established practice, to require a reasonable amount of contribution from each of these Congregations, or from each Deacons' Court, toward the necessary presbyterial expenses.

Ecclesiastical Buildings, etc.

47. Particular functions have been assigned to Presbyteries in relation to ecclesiastical buildings. (See Act VIII. 1863.)

Committees.

48. The Presbytery may appoint Committees of its number for the more careful and minute consideration of these portions of business which seem to require such appointment, it being understood that the Committees are to report to the Presbytery, who will record their own judgment upon the subjects of the several reports.

Division II.—Department of Review.

Review of Session Records.

1. The Presbytery may be called to exercise the right of review, through its periodical examination of the Records of Kirk-Sessions and Deacons' Courts. A copy of the Communion Roll, revised by the Kirk-Session, and signed by the Moderator and Clerk, must be annually sent to the Presbytery.

(1.) It must pronounce a judgment of approval or disapproval as to the correctness and accuracy with which each Record is kept, and with which each Communion Roll is drawn out, requiring serious errors to be rectified, and pointing out deficiencies or mistakes of a less important character, in order that they may be avoided for the future.

(2.) It may intimate either to Sessions or Deacons' Courts any improvement which ought to be adopted in their modes of conducting business.

(3.) It may find that any deliverance of a Kirk-Session is erroneous, as exhibited in the Minute. It may reverse any such deliverance, on the ground of the erroneousness thus exhibited. Or it may declare a Sessional judgment to be null and void, because it was *ultra vires*, or in opposition to the laws of the Church. If it be too late for a simple reversal to redress any injustice, the Presbytery may give instructions to the Kirk-Session for affording such redress as the laws of the Church may still render practicable.

Review of Session Records.

The Presbytery may also order passages of the Session Record to be deleted. The deletion may be carried out either by the Session or by the Presbytery Clerk, under the orders of the Presbytery. The mode of deletion is either by having the deleted words crossed, so as to be unintelligible, and the crossings marked as deleted on the margin, with an attestation by the person deleting, or by having leaves cut out of the Record, and the number of pages so dealt with being formally entered on the Record. In either case, the Minute of Presbytery ordering the deletion must be inserted in the Record. Before pronouncing any judgment with respect to any deliverance

of a Kirk-Session, or before ordering the Minutes of a Kirk-Session to be altered, the Presbytery must summon the Kirk-Session to the bar, and hear them as parties.

(4.) The Presbytery, in considering the Record of a Deacons' Court, may find that the procedure of that Deacons' Court has been *ultra vires*, or contrary to the Acts of Assembly, and may declare it to be null and void, or order Minutes to be altered, on either of these accounts. Before doing so, however, it must summon the Deacons' Court to the bar, and hear them as parties. The Presbytery have no power of judgment with respect to those details of practical procedure in the Deacons' Court which are within their province, and consistent with the Acts of Assembly.

Petitions to Presbyteries.

2. Particular matters may be brought under review of the Presbytery by means of Petition. The exact order of Presbyterian government requires that every case from an Inferior Court should be introduced to the Superior by a petition. This order is observed in the General Assembly with reference to Appeals, Complaints, and References, which must all be brought under notice by an accompanying Petition to the Committee on Bills. But the same order is not enforced in the practice of Presbyteries. Petitions to a Presbytery are practically confined to those matters which can be introduced in no other way.

(1.) The Presbytery ought not to receive a Petition with reference to any matter which ought to have been previously brought before the Kirk-Session, unless the Petition contain a statement that the Kirk-Session, having come to a decision regarding the matter referred to, have refused to receive and record an Appeal or Complaint tendered against their judgment. But a Petition to the Presbytery is the proper remedy for such refusal. Before proceeding to hear the Petitioners in such a case, the Presbytery must summon the Kirk-Session to the bar, that they may be heard for their interest.

(2.) When disputes or difficulties have arisen in a Congregation, which do not involve any serious personal charge, but which cannot be constitutionally adjusted by the Kirk-Session, in consequence of the Minister being concerned in them, or from other causes, it is competent for any parties connected with the Congregation to petition the Presbytery on the subject. The Petition may ask for a Presbyterial visitation, or for any other method of interference by the Presbytery that may be competent and suitable. Before the Petition can be disposed of, all parties referred to in it, or affected by it, must be summoned, with due notice, to the bar, that they may be heard for their interests.

(3.) The constitutional method of bringing before the Church any question seriously affecting the character or the orthodoxy of a Minister or a Probationer is by a Petition to the Presbytery, unless such question be originated in the Presbytery itself, or in the Synod or General Assembly; or unless the parties otherwise raising it take upon themselves the responsibility of preparing and

tabling a Libel for the consideration of the Presbytery. (See Chap. V. Part III.)

(4.) A Petition to the Presbytery is competent, either by the Kirk-Session, or by the Deacons' Court, or by any member of the Congregation, or by any person concerned about its prosperity, if the object aimed at be one which the Presbytery alone can accomplish, or which must be originated in the Presbytery. Under this head may be reckoned Petitions for the institution of Stations, for the sanctioning of Charges, for the creation of Kirk-Sessions, and for the erection of Churches or Manses.

(5.) A Petition is competent which complains of any procedure in a Deacons' Court when the complaint is shown to be on the alleged ground that the procedure was *ultra vires*, or contrary to the Acts of Assembly.

N.B.—A Presbytery may reject any Petition, without calling or hearing parties, on the ground that it is unsuitably or disrespectfully worded, or, without hearing parties *on the merits*, on the ground that its prayer cannot be competently granted by the Presbytery.

Presbyterial Visitations.

3. A Presbyterial Visitation may be appointed by the Presbytery, either of its own accord, or in consequence of a Petition from the Kirk-Session, the Deacons' Court, or other parties connected with a Congregation. The General Assembly of 1889 passed an important Act (Act II. 1889) anent *Regulations for more effectual oversight of Congregations*. This Act provides that Presbyteries shall examine by visitation into the state of every congregation within their bounds once, at least, in five years, and that the result shall be specially reported to the Synod each year, and through the Synod to the General Assembly.

The object of Presbyterial Visitation, when prosecuted at the instance of the Presbytery itself, in accordance with the law of the Church and the recommendation of Assemblies, is not of an inquisitorial character. Its purpose is to strengthen the hands of the Ministers, Elders, and Deacons, and to give the benefit of special advice and counsel to the Congregation as well as to the office-bearers. It has, therefore, been recommended that, when this work is entered on, all the Congregations within the bounds should be visited in rotation.

Presbyteries are authorised to frame their own questions and mode of procedure, but are instructed in any case to have special regard to the work of the Minister and Office-bearers and the spiritual state of the Membership.

Apart from this general system of Presbyterial Visitation, it is competent, and may sometimes be extremely desirable, for a Presbytery to appoint a Special Visitation of a particular Congregation, when circumstances calling for such visitation have been forced upon their notice. But this course can be justified only when the circumstances are clearly such as to call for Presbyterial interference.

References, Complaints, and Appeals.

4. It is the duty of the Presbytery to take into their consideration, at the first convenient opportunity, any case of Reference, Complaint, or Appeal, which has been duly transmitted to the Presbytery Clerk, with respect to the procedure of any Kirk-Session within the bounds. The order of procedure is as follows, viz. :—

Order of Procedure.

(1.) The Clerk of Presbytery reads the documents that have been transmitted in the case.

(2.) Parties are then called, and the names of the persons who severally appear for each of the parties are minuted as so appearing. If any party having been duly cited do not appear when called, and no adequate cause for non-appearance be assigned, that party is held as having given up the cause, and unless the Presbytery find reason otherwise for an opposite course, a decision may be given against that party in absence.

(3.) After the names of parties have been minuted, and if the Presbytery be satisfied that the documents are sufficient to bring the case before the Court, and that all parties have been duly cited, the next step is to hear their representatives at the bar.

(4.) In the case of a Reference, the Kirk-Session are a party only with respect to the preliminary question whether or not the case ought to have been referred; or, in other words, whether the Reference ought now to be sustained or dismissed by the Presbytery. All the parties are entitled to be heard upon this question. If there be any Appeal or Complaint against the Reference, the Appellants or Complainers are heard *as such.*

References from Kirk-Sessions.

There are some cases of Reference in which the question of sustaining the Reference or not must depend entirely on the question whether the previous procedure of the Kirk-Session has been regular or not, and whether their Minute brings up the matter in a correct form or not. These are special cases of Discipline which the law absolutely requires to be referred by the Kirk-Session to the Presbytery. (See Chap. V. Part II.) In all other cases the Presbytery is called upon to judge freely, after hearing parties, whether there appear to have been good reasons for the Inferior Court referring the case, rather than deciding it themselves. The Presbytery either *sustains* or *dismisses* the Reference. If it dismiss the Reference, it may also censure the Kirk-Session for having referred the case without good cause. If it sustain the Reference, then the Kirk-Session cease to be parties; their representatives leave the Bar; and the Moderator and the duly-commissioned Elder are entitled to vote as Members of Presbytery upon the case, when it is taken up upon the merits.

(5.) The Presbytery determines for itself as to the number of speakers whom it will hear for each party at the bar. Having often more time at its disposal than either the Synod or the General Assembly, it does not always feel itself obliged to maintain such rigid rules upon this subject as are laid down in the

Standing Orders of the Assembly. But whatever rule it may adopt must be an impartial one.

(6.) The Presbytery usually hears one or two speakers for each party concerned, *beginning* in the cases of Appeal or Complaint with the Appellants or Complainers; or, in cases of Reference, at the preliminary stage, when there is no Appeal or Complaint against the Reference, with the party supporting the Reference, who is called upon to *state* it; or in such cases on the merits, when there is a question in dispute, with the party who originated that question in the Inferior Court; and *ending*, in each of these several instances, by hearing one speaker from the same party in reply. As a Reference brings up all parties, the state of parties, when the merits are taken up by the Presbytery, must be the same as it was before the Kirk-Session.

(7.) When the interests and pleas of two parties are seen, on the face of the case as presented, to be in substance the same, the Presbytery is entitled to deal with them as one party, with respect to the hearing of speakers.

(8.) After the hearing of parties, an opportunity is given to Members of Presbytery for putting questions to the parties at the bar.

(9.) Parties are then removed.

(10.) The Presbytery proceeds to deliberate and to pronounce its own judgment, either unanimously, or after a vote has been taken. (See Supplement to Chapter II. Part II.)

Order of Procedure in Appeals.

(11.) The judgment may be expressed in such terms as the Presbytery thinks most suitable; but in every case of Appeal or Complaint, in which a judgment on the merits is pronounced by the Presbytery, the judgment must expressly sustain or dismiss the Appeal or Complaint, and must expressly reverse or affirm the judgment of the Kirk-Session, whatever additional words or sentences the Presbyterial Deliverance may contain.

(12.) Parties are called in, and the judgment of the Presbytery is intimated to them.

(13.) If a party at the bar, after hearing the intimation, acquiesce in the judgment, it is usual for him to intimate his acquiescence, and to have it minuted. If he does so in due form, he is entitled to extracts.

N.B.—The statements here made as to the hearing of the parties at the bar apply to the hearing of parties in cases of translation, *mutatis mutandis*. They apply also to the hearing of parties in Petitions.

Division III.—Department of Special Relations to the Superior Courts.

Petition as to Change of Name, etc.

1. A Presbytery cannot make any change upon its name, the particular charges and localities under its jurisdiction, the constitution of its membership, or its chief place of meeting, which is called the Presbytery Seat. To obtain a change in any of

these arrangements, it must present a special Petition to the General Assembly.

2. Any part of a Presbytery's procedure is liable to review by the Superior Courts.

Responsibility to Synod as to Record.

(1.) The Presbytery is responsible to the Synod for the correctness and accuracy of a permanent Record in which their Clerk is required to copy out their Minutes. And it is competent for the Synod, in their annual or half-yearly examination of the Presbytery Records, to take notice of any irregularity or error, not only in the language or form, but also in the substance of the Minutes, and to exercise their powers of review thereanent. If anything be deleted, it must be marked in the margin; and any word or words omitted must be written on the margin, and attested there by the initials both of the Moderator and Clerk. Every minute ought to be signed in the Record both by the Moderator and Clerk. Even when a Scroll Minute has been signed by a person acting as Clerk *ad interim*, the same Minute in the Permanent Record ought to have the signature attached to it of the permanent Clerk, in addition to that of the Clerk *ad interim*. In circumstances which, arising through a meeting being held at a very great distance from the Presbytery seat, make it difficult for a Clerk *ad interim* to have access to the Permanent Record, his signature in that Record may be exceptionally dispensed with, provided it be attached to the Scroll Minute, and provided the permanent Clerk, while signing in the Permanent Record, preserve at the same time the Scroll Minute *in retentis*. No erasure of the Minutes can be made without the authority of the Synod or Assembly. A Presbytery cannot reverse or rescind any of its decisions; but, in order to obtain any alteration, it must petition the Synod or Assembly.

Dissents.

(2.) When any judgment or resolution has been come to by a Presbytery, any member of the Court who is present and has objected to that judgment or resolution, may enter his dissent from it, provided he does so immediately after the decision has been announced, and before other business has been taken up. If the dissent be accompanied by reasons, they are recorded in the Minute along with the dissent. But if reasons are given in at a subsequent stage or meeting, they are not recorded, but are simply kept *in retentis*; or, in other words, they are preserved by the Clerk among the Presbyterial documents. Other members of Presbytery, who, being present, have joined in the objection to the decision, may adhere to the dissent at any subsequent stage or meeting. The effect of such a dissent, whether with or without reasons, is to save the member or members dissenting from all responsibility for what has been done, whether in the light of his or their own conscientious sense of duty to God, or in any view which may afterwards be taken of the matter by the Provincial Synod or by the General Assembly. For,

(3.) Any member of Presbytery, when dissatisfied with a

decision, may immediately after its announcement dissent, and protest for leave to complain against it to the Provincial Synod, if the meeting of that Court intervene between the time of the Presbyterial decision and the meeting of the General Assembly, or to the General Assembly itself, if there be no such intervention In other respects, the same rules apply on the subject of dissents and complaints as have been already stated in reference to Kirk-Sessions; the Presbytery Clerk occupying the place in relation to them which belongs to the Session Clerk, and the Synod or Assembly Clerk occupying that which belongs to the Presbytery Clerk in relation to dissents and complaints against judgments of a Kirk-Session.

Dissents and Complaints.

(4.) Appeals are competent against Presbyterial judgments, and are taken and carried out in the same way and according to the same rules which have been described in relation to appeals against judgments of Kirk-Sessions, the same substitution being made of the Presbytery Clerk for the Session Clerk, and the Synod or Assembly Clerk for the Presbytery Clerk.

Appeals.

(5.) A Presbytery may refer a matter for advice to the Synod, or, if there be no intervening meeting of Synod, to the General Assembly. The rules in the case of Kirk-Sessions, with the substitution already mentioned, apply here also. Presbyteries are positively required, before moderating in a Call in any case of serious division in a Congregation regarding the choice of a Pastor, to refer the matter to the Superior Courts for advice. In cases of Libel against Ministers, two special grounds have been allowed by Acts of Assembly, upon which it is held competent for Presbyteries to refer such cases at a particular stage to the Superior Courts. (See Acts IX. and X. Assembly 1854, and also Chapter V. Part III.)

References.

(6.) Complainers and Appellants are entitled to such extracts from the Minutes of Presbytery as they require to enable them to bring their Complaints or Appeals before the Superior Court. The same rules apply as in the case of extracts from the Minutes of Kirk-Sessions by parties complaining or appealing.

Extracts.

(7.) If a Presbytery refuse to receive or record any Complaint or Appeal, it is open to the party to petition the Synod or Assembly with reference to such refusal.

Petition against refusal to record Complaint or Appeal.

(8.) One Presbytery cannot interfere with or review the procedure of another Presbytery. As in the case of Kirk-Sessions, the only regular mode of redress for encroachment by one Presbytery on the province of another, is for the Presbytery which feels that its jurisdiction has been interfered with to petition the Synod, or, if no meeting of Synod intervene, the General Assembly. Of course such a Petition cannot be received by any Synod except the one which has jurisdiction over the Presbytery whose procedure is complained of.

No interference with another Presbytery.

Petitions to Synod or Assembly.

3. It is competent for a Presbytery to petition the Synod or Assembly with relation to any subject within the competency of the Court to whom the Petition is addressed, if the subject be not one which can come up to that Court by Reference, Complaint, Appeal, or Overture.

Application of Ministers of other Denominations.

4. Any Minister or Probationer belonging to any other Denomination who desires to be admitted as a Minister or Probationer of the Free Church, must apply, in the first instance, to the Free Church Presbytery within whose bounds he has taken up his residence. The Presbytery has no power to admit him, but must fill up answers to certain questions regarding the Applicant, and transmit these answers to the General Assembly through its Committee along with any remarks or recommendations which it may seem fit to add.

Procedure as to Colleagues and Successors.

5. When a Presbytery has come to the conclusion that a Congregation ought to be allowed to call a Colleague and Successor to their Pastor, the Presbytery is required to draw up a Minute of recommendation and application to the General Assembly to that effect, or, at least, to prepare Extracts from its Minutes, which, while exhibiting its whole procedure in the case, may embrace such a recommendation and application.

It is the duty of Presbyteries to deal with applications for Colleagues and Successors in Congregations that are not self-supporting, as if they were dealing with vacant charges, in so far as communication with the Committee on the Platform of the Equal Dividend is concerned.

Aid for Assistants.

6. The rules as to a Presbytery's procedure with relation to the appointment of a Colleague and Successor apply also to any case in which pecuniary aid is sought to enable a Congregation to provide a Minister with an Assistant.

Aged and Infirm Fund.

7. The same action towards the Assembly and its Commission as that referred to in the preceding Sections is required of Presbyteries in connection with all applications whatsoever for aid from the Aged and Infirm Ministers' Fund.

Sanctioning of Charges.

8. The Minute of Presbytery recording its opinion in favour of an application for the sanctioning of a new Pastoral Charge within its bounds, must take the form of a Recommendation, and must be transmitted to the Clerk of Assembly.

Application from Station for Aid.

9. When application is made on the part of a Station for aid from the General Assembly's Home Mission Committee, it is requisite for the Presbytery of the bounds to communicate its judgment thereanent to that Committee, either spontaneously, or in consequence of the Committee having asked for such communication.

Student Missionary.

10. The approbation of the Presbytery of the bounds is required for every application for aid from the Home Mission Committee, according to its rules, towards the support of a Student Missionary in any Congregation.

11. Particular action and communication are appointed for

Presbyteries with relation to the Sustentation Fund and the Platform of the Equal Dividend.

Sustentation Fund and Equal Dividend.

12. It is the duty of Presbyteries to observe carefully all those instructions of the General Assembly which are consistent with the constitution of the Church, respecting the various collections and operations appointed or instituted by that Assembly, and carried out by means of its Committees or otherwise, for the furtherance of the Gospel at home and abroad, or for the welfare of the Church.

Collections appointed by Assembly.

13. The sanction of the Presbytery is required for any Sale or Transference of Churches or Manses, or other buildings which, by their Title-Deeds, have become the property of the Free Church of Scotland. This sanction must be intimated to the General Assembly, along with the necessary application from the parties to that Body, who alone have jurisdiction in the matter.

Transference of Buildings, etc.

Overtures to General Assembly.

14. It is competent for any Presbytery to transmit what is called an Overture either to the Provincial Synod or to the General Assembly, with the view of inducing the Superior Court to adopt any measure within its legislative or executive functions. All Overtures and Returns to Overtures from Presbyteries must be sent to the Clerk of Assembly at least seven days before the meeting of Assembly.

Approval, etc., of Overtures transmitted by Assembly according to Barrier Act.

15. It is the right and duty of every Presbytery of the Church to take its part in the Legislation of the Church, by approving or disapproving of Overtures transmitted by the General Assembly, with a view to such Overtures being passed into Standing Laws, in terms of what is called the Barrier Act. By that Act, passed in 1697, the rule has been fixed, that no Acts can be passed by the Assembly, so as to be binding rules and constitutions for the Church, until they have first been passed by the Assembly simply as Overtures, and transmitted in that form to the several Presbyteries for their opinions, and until the consent of a majority of Presbyteries has been obtained.

Previously to the consideration of any such Overture in a Presbytery, a particular day is fixed for the purpose, either by some member giving notice of motion thereanent, or by an agreement that the subject shall be taken up at next ordinary meeting, or on some day specially named. If it be thought desirable, a Committee may in the first instance be appointed to consider the Overture, and to report. In declaring their opinion of an Overture transmitted by the Assembly, a Presbytery must either expressly approve of it or reject it. A qualified approval, or a proposed amendment of it, is held equivalent to its rejection.

Particular questions submitted by Assembly.

16. Particular questions to which the rule of the Barrier Act does not strictly apply, are sometimes submitted by the General Assembly to the several Presbyteries. This course is taken when it appears expedient that the opinions of the Presbyteries should be communicated to the Assembly, or to any one of its Com-

Election of Representatives to Assembly.

mittees, with a view to assisting their counsels or guiding them in their procedure.

17. The Members of the General Assembly are annually elected by the Presbyteries of the Church. Each Presbytery is allowed and instructed by special Act of Assembly to elect a definite number of Ministers and Elders as their Commissioners to the ensuing Assembly—the number of Elders being equal to the number of Ministers, and the whole number being proportioned, with very little variation, to the number of Pastoral Charges and Professorial Chairs, which are recognised as introducing the Ministers and Professors connected with them to seats in the Presbytery.[1] The position and duties of every Presbytery with reference to the Election are:—

(1.) In accordance with instructions from the General Assembly, or in accordance with its Standing Orders, or in conformity to resolutions of its Committee on Assembly Arrangements, the Clerk of Assembly must intimate in due time to all Presbyteries concerned whatever changes they require to make in the amount or order of their returns.

(2.) If a Presbytery be dissatisfied with any intimation made to it by the Clerk of Assembly as to its proportion of representation, it may appeal to the Assembly itself against the intimation, whether founded upon a Deliverance of the Committee on Assembly arrangements or not.

(3.) The election must take place between the hours of eleven A.M. and eight P.M., at least forty days before the meeting of the Assembly. On the other hand, it must be at no earlier date than a calendar month preceding the first of these forty days. An exception is allowed in favour of Presbyteries in the Northern and Western Islands, which may elect their Commissioners on any day before the first day of May.

(4.) Every Presbytery must appoint and minute the appointment of the day for the election of its Commissioners to the General Assembly, at a meeting held at least ten days previously; or, in other words, it must then formally resolve to elect its Commissioners on a particular day.

(5.) On the day appointed, and within the specified hours, a Presbytery having respect to the Acts of Assembly and the Intimation of the Clerk of Assembly (in so far as it considers these intimations to be conformed to the Acts), with respect to the number of their Commissioners, is called upon to elect freely such Ministers as it chooses from the whole of those who have seats in the Presbytery as Ministers or Professors, and such Ruling Elders of the Free Church of Scotland as it believes can be certified to be *bonâ fide* acting Elders in particular Congregations of that Church, and as it considers to be suitable persons

[1] Variations exist at present, in consequence of both Ministers being counted in Congregations with Colleagues and Successors, and of every Minister being counted who, on any ground, is a constituent member of Presbytery.

for representing it in the Supreme Court. Each Presbytery may practically follow any rule of rotation in the Election of Ministers, and any rule of congregational or local selection in the election of Ruling Elders, to which its members are inclined. But the Minute must not intimate that it has done so; for the law of the Church recognises nothing but a free election. No person can be elected as a Minister or Professor who is not, in that capacity, a constituent Member of Presbytery. But any Ruling Elder is eligible, whether he belong to the bounds of the Presbytery or not, of whom it can be certified that he is *bonâ fide* an acting Elder in a Congregation of the Free Church.

(6.) Any Minister or Ruling Elder who has been elected a Commissioner by a Presbytery to the General Assembly, may intimate, at a subsequent meeting, his resignation of his Commission. In the event of such intimation, or in the event of the death of a previously elected Commissioner, the Presbytery may elect another in his room at any subsequent period previously to the Meeting of Assembly, provided this be done within the specified hours, and provided the prescribed forms be observed. Act II. Assembly 1885 declares any election invalid which is made after the Assembly has met.

(7.) Printed Forms of Commission are furnished by the Clerk of Assembly to the Clerks of Presbyteries. They must be exactly filled up, and read over in the presence of the Presbytery. The Minutes of Presbytery must be so drawn up as to correspond to the Form.

(8.) The Commission to a Presbytery's Representatives, attested by the signatures of the Moderator and Clerk, ought to be sent to the Clerk of Assembly at least one week before the day appointed for the meeting of Assembly.

Submission of Record to Synod.

18. Presbytery Records are liable to be called up by the Provincial Synod for revision and attestation, according to the law of the Church. They are generally required to be submitted to the Synod once a year.

Abstract of Synod's Proceedings read.

19. An abstract of the proceedings of each Provincial Synod ought to be sent down to every Presbytery within its bounds as soon after its meeting as possible. This abstract must be read at the first Ordinary Meeting of Presbytery that occurs after its receipt, and the fact of its being read must be duly recorded.

SUPPLEMENT TO CHAPTER II., PART II.

Containing particulars common to the Three Divisions.

CHAP. II. — PART II. — SUPP.

Order of Business.

1. The business at any ordinary Meeting of Presbytery is usually arranged as follows:—

(1.) Matters referred to in the Minutes of the last Ordinary Meeting as remaining to be disposed of are first of all taken up in the order of that Minute.

(2.) Any new case, in which parties are prepared to appear at the bar, is taken up at as early a stage of the procedure as the nature of the other business will allow, unless it be intimated that those parties are willing that it should be postponed. This course is followed simply on the ground of courtesy towards persons who may have been put to inconvenience in order to attend the Meeting, and may not wish to be detained.

(3.) Periodical Reports of Committees on any subjects, which require to be regularly and statedly attended to, such as the Returns to the Sustentation Fund, are usually disposed of next in order to the matters suggested by the Minute, and the cases of immediate urgency, in which parties at the bar are concerned.

(4.) The consideration of Overtures is allowed to take precedence of any business not included under the foregoing heads.

(5.) On the day appointed for the election of Commissioners to the General Assembly, the discharge of that duty usually takes precedence of any other business after eleven o'clock A.M.

(6.) If there be more than one piece of business appointed for a *pro re nata* or *in hunc effectum* Meeting, that first mentioned in the circular calling, or in the Minute appointing the Meeting, comes naturally to be first disposed of.

(7.) A Presbytery may break through the order here indicated, provided that no duty be neglected by it, which is required by the constitution of the Church and the Acts of Assembly.

Duty of Clerk.

(8.) It is the duty of the Clerk of Presbytery to bring forward the several matters of business in the order which he thinks best, although the Presbytery may overrule his judgment. It is a useful practice for him to put into the hands of the Moderator, at the outset, a list of the matters to be taken up, in the proposed order. For, strictly speaking, it is the part of the Moderator to intimate, at each stage of procedure, what ought next to be considered. But practically the Clerk, from his more minute knowledge of particulars regarding the business, is permitted to act as the Moderator's Assessor or Deputy in this department of duty.

(9.) When a matter of business has been disposed of, especially if it be of serious consequence, the Minute thereanent ought to be exactly adjusted, and read before passing to the next business.

Adjustment of Minute.

2. With a view to a Presbytery coming to a decision upon any question, a Member of Presbytery must make a motion on the subject.

Motions and Speaking.

(1.) When parties have been heard at the bar on any matter before a Presbytery, the Judgment must proceed, in part at least, upon the view taken by those who concur in it, of the statements made by these parties. Consequently there can be no previous Notice of Motion in such cases. But in matters which do not involve the hearing of parties, and especially in matters of legislation, the usual courtesy is to give notice at a previous Meeting of any Motion which is intended to be brought forward.

(2.) Any Motion submitted to the Presbytery should be committed to writing and given in to the Clerk. If, after the Mover has addressed the Presbytery, the Motion be not seconded, it falls to the ground, without discussion. When it is duly seconded, it is open either for unanimous adoption, or for discussion. No alteration can be made upon it without the leave of the Presbytery, except in the shape of an Amendment, or Second or Third Motion, proposed and seconded by other Members who object to the First Motion as its stands. A Motion made, seconded, and recorded, cannot be withdrawn without the leave of the Presbytery.

(3.) In the discussion on Motions, a Member can speak only once, unless he ask leave to explain something in what he has said which seems to be misunderstood. Leave is always granted to this effect, provided he confines himself strictly to explanation. An exception to the rule is allowed in favour of the Member who introduces the First Motion, who has a right to reply. But he is not permitted to introduce any new matter into his reply. After the reply, the discussion is held to be closed, and the Vote is taken.

Call to order.

(4.) In the course of a discussion, any Member has a right to call another to order, and, when this is done, the person speaking should stop till the question of order is determined. Any Member (whether he has already spoken or not) can take part in the discussion of the point of order. It is convenient that the point of order be referred, in the first instance, to the Moderator, who may at once announce such an opinion thereanent as may manifestly without any vote, command the general concurrence. But, if there be much division of opinion, the point must be determined by a vote.

Voting.

3. In voting, a Presbytery usually follows the substance of the rules exhibited in the Standing Orders of the Assembly, except that the result of any vote is ascertained simply by calling the Roll, and the Members present, each saying when

called, First Motion, or Second Motion, or Amendment, or naming the Motion he votes for in the way agreed upon.

(1.) When there are only Two Motions before a Presbytery on any subject, the state of the vote is *Motion* or *Amendment*, or *First* or *Second* Motion. The Roll is called by the Clerk or some one assisting him, and the votes are marked for the one Motion or the other. The one preferred by a Majority is announced and intimated as the Decision of the Presbytery.

(2.) When there are Three Motions, the usual practice is to follow the rule of the General Assembly's Standing Order, and to put the Two *Amendments* or the *Second* and *Third* Motions against each other in the first instance. The one of these which is carried by a Majority is then put against the Original Motion, and the one which is carried, on this Second Vote, is announced and intimated as the Decision of the Presbytery.

(3.) It is the duty of the Clerk to mark the votes, taking assistance from one of the Members.

(4.) On the same principle, any number of Motions or Amendments may be disposed of by putting the last, in the first instance, against the second last, and so determining which is to be put against the next in the reverse order. The question may thus always be reduced to a vote between the Original Motion and that Amendment or Motion, whether it be Second, Third, or Fourth, or Fifth, which has been preferred through successive votes, as the one to be placed in immediate competition with the Original Motion.

(5.) During the taking of a vote, the doors ought to be closed, so as to avoid all confusion by Members going out or coming in.

Extracts.

4. The usual and approved means of communicating decisions of Presbytery to those whom they concern is by Extracts.

(1.) Parties in cases before Presbyteries are entitled to Extracts from the Record, containing those parts of the Minutes in which they are concerned. Those parties who acquiesce in a Judgment are equally entitled, with those who appeal against it, to crave Extracts and take Instruments in the Clerk's hands.

(2.) Members of Court are entitled to Extracts, when they desire to have them, whether they dissent and protest for leave to complain or not.

(3.) Any person, who can show any reasonable ground for the request, may ask and obtain Extracts.

(4.) The Clerk is not at liberty to give Extracts to any Member of Court, or to any other party, without the express leave of the Presbytery.

(5.) The Presbytery cannot refuse Extracts to any one who requires them, to enable him to bring his case before the Superior Courts.

(6.) The Presbytery is entitled to appoint fees to be paid to the Clerk for giving Extracts.

(7.) There ought to be an agreement with the Clerk, in fixing his emoluments, as to the extent to which he is expected to give Extracts without fee.

Fees.

(8.) It is not usual to require any fees for Extracts, when they are manifestly requisite to enable those who ask for them to bring their Appeals or Complaints before the Superior Courts, or to enable those who acquiesce in decisions to have the means of showing that these decisions have been in their favour.

(9.) Fees may be reasonably required when Extracts are given without any manifest necessity. But this point must be determined by each Presbytery for itself.

Modes of raising Funds.

5. The modes of raising funds for necessary expenses may vary in different Presbyteries. Fees of greater or less amount may be charged to each Congregation within the bounds at the settlement of its Minister. Other charges may be instituted of a similar kind. And an annual allocation of the whole, or a portion of what is required, may be made to each Congregation. The Presbytery usually finds it advisable to arrange with its Clerk how this matter is to be adjusted, when it fixes the terms of his appointment, and the amount of his own and its Officer's salary.

CHAPTER III.

The Provincial Synod: its constitution, powers, and functions.

Part I.—*The Constitution and Officials of the Provincial Synod.*

CHAP. III. PART I. Membership.

1. A Provincial Synod consists (1.) of all the Pastors of congregations within the province, Colleagues and Successors being included; (2.) of the Professors of Theology, whose appointed sphere of labour is within the province; (3.) of such Ordained Ministers within the province, and not having charges, as may have been received in the capacity of members of a Presbytery in the province, by authority of the General Assembly; (4.) of the same representative Elder from each Kirk-Session in the province, who represents it in the Presbytery to which it belongs; and (5.) of corresponding members, both Ministers and Elders, commissioned as such by neighbouring Synods. A Provincial Synod may associate with itself in its deliberations, *pro tempore*, any ordained Minister who is present, but he cannot vote upon any question before the Court. Ministers and Elders from other Synods may be added by the General Assembly as Assessors to the Synod for particular purposes. With reference to these purposes, and these purposes only, they have the rights of members during their appointment.

2. The same commission from a Kirk-Session which constitutes a Ruling Elder a member of Presbytery, constitutes him also a member of Synod during the year which is terminated at the close of the first ordinary meeting of Synod after his election. He cannot be allowed to take his seat in the Synod, unless either his commission be produced, as in the case of the Presbytery, or his name appear in the Roll of his Presbytery, as certified to the Synod by the Clerk of Presbytery. The form of commission must, of course, bear that he is elected to represent the Session in the Synod as well as in the Presbytery.

3. Corresponding members are commissioned by each Provincial Synod to attend the meeting of neighbouring or adjoining Synods. It lies with the Assembly to fix the number of such corresponding members in the case of each Synod in its relation to any neighbouring Synod. That number is generally

limited to one Minister and one Ruling Elder, who must both belong to congregations within the province of the Synod which commissions them. In some instances, in which it was thought that Synods required to be specially strengthened, the Assembly has appointed two Ministers and two Elders to be sent as corresponding members from neighbouring Synods. Corresponding members have an equal right of speaking and voting with other members. Before being allowed to take his seat, each of them must produce a commission in regular form.

Fixing of Locality, Name, etc.

4. The locality, the name, and the number of Presbyteries for a Provincial Synod, are fixed by the authority of the General Assembly. New Synods may be instituted, or new arrangements made regarding old ones, as the Assembly may judge expedient. The number of Presbyteries in a Synod of the Free Church of Scotland at present varies. The Assembly also fixes the ordinary place or places of meeting for each Provincial Synod, but liberty is given to meet occasionally at one or more places in the province. The time for each Ordinary Meeting of the Synod is regulated by the Assembly.

Ordinary Meeting.

5. An Ordinary Meeting of Synod may thus be described as one which takes place in accordance with an Act of Assembly, fixing its place and time, or which is held as such through the exercise of a choice allowed to the Synod by Act of Assembly.

Adjourned Meeting.

6. It is not usual for a Provincial Synod to appoint any meeting *in hunc effectum*. But if the nature of any business before it at an Ordinary Meeting require a postponement, it is competent for it to adjourn, to meet again on a day more or less distant, provided the adjourned meeting can be held previously to the time fixed for the next ordinary meeting.

Pro re nata Meetings.

7. A *pro re nata* meeting of a Provincial Synod may be called by the Moderator, either *sua sponte*, or on a requisition addressed to him by some of the members, three of whom at least should be Ministers.

Quorum.

8. Three Members of Synod form a Quorum, provided two of the Members have the Status of Ordained Ministers.

Validity of Meeting when Elders have been duly elected.

9. It may be assumed that the principle involved in the Finding of Act II. Assembly 1865, on the subject of the validity attaching to a Meeting of Presbytery when two Ministers and one or more Ruling Elders, duly elected and producing valid Commissions, have convened together, applies equally to the case of Provincial Synods. Upon this assumption, it may be stated that a Meeting of Synod may be duly constituted in such circumstances, and that the Form contained in Act VII. Assembly 1866, may be adopted *mutatis mutandis*.

Commissions to Elders receivable at any Meeting.

10. It seems to follow that Commissions to Ruling Elders may be received at any Meeting of Synod, whether it be Ordinary or Adjourned, or *pro re nata*.

11. Each Ordinary Meeting of Synod is opened by the Moderator elected at the last Ordinary Meeting, who preaches a

CHAP. III. PART I.

Opening of Synod.

Sermon in one of the places of worship belonging to the Free Church in the locality. At the close of public worship he intimates that the Synod will meet immediately thereafter, mentioning at the same time in what room or building the Meeting will be held.

12. A quorum of Members being assembled, the Moderator constitutes the Meeting with prayer.

Adjustment of Roll, etc.

13. The first act of the Synod, at an Ordinary Meeting, is to adjust its Roll, or, in other words, to determine who are its Members. The Presbyteries in the Province are called in a certain order, so that the one called first at one Meeting is called last at the next one, and so on.

Commissions to Corresponding Members from neighbouring Synods are called for. If produced, these Commissions are read. And if found in regular form, they are sustained, and the names of the persons mentioned in them are added to the Roll.

Election of Moderator.

14. After the Roll has been made up, the Synod proceeds to elect a new Moderator. They may appoint any Ordained Minister who is a Member of Synod to fill the office. When once elected, he remains in office till he has performed the duty of opening the next Ordinary Meeting, and till his successor has been chosen. It is his duty to preside at the diets of Synod, besides taking the lead in devotional exercises at the opening of each diet. In other respects his functions correspond to those exercised by a Moderator of Presbytery.

Clerk or Clerks.

15. Each Provincial Synod appoints one or more Clerks. The Clerk is usually a Member of Synod. He may be specially appointed *ad vitam aut culpam;* or he may be simply employed to act as Clerk during the pleasure of the Synod. On his appointment he solemnly promises to discharge the duties of the office with fidelity. The regular Clerk of Synod has usually a Salary drawn from contributions by the congregations within the Province, and from fees paid for Extracts. These contributions and fees are regulated by each Synod for itself.

Opening and closing of each Diet.

16. Every diet of a Synod's sittings is both opened and closed with prayer. The Minute must always bear, at the outset, that the Synod was constituted, which expression implies that it was constituted with prayer, and that a sufficient Sederunt has been ascertained, and, at the end, that the Meeting was closed with prayer. No Minute can be sustained as valid if it does not mention these two particulars.

Minutes of last Meeting read over.

17. After the Roll has been adjusted and the Moderator has been elected, or after the Synod has been constituted at its second diet, either the Minutes of the last Meeting of Synod, or the topics of them as stated in the margin, are read over, to remind or inform the members of what was transacted. But, having been before approved of and revised, they are not submitted for the judgment of the Synod. The Minutes of each diet are read over and approved of, or corrected, at the commencement of the

next diet, excepting those of the last diet, which are read over and approved of, or corrected, at the close of that diet. The Minutes of any *pro re nata* Meeting of Synod must be read over and approved of or corrected at the first diet of the first ordinary meeting thereafter. After the minutes of any Meeting have been approved of by the Synod, they cannot afterwards be altered except by the authority of the General Assembly. The approval or correction of the Minutes does not imply any power to alter the *res gestæ* of the Meeting. The only question is the correctness of the Minute as a true account of what was done. The Minutes of each meeting of Synod in the several diets, after they have been approved of and engrossed in the permanent Record, must be signed by the Moderator and Clerk. Any person who has acted either as Moderator or Clerk during a portion of a sederunt, ought to sign the Minute of that sederunt, as Moderator or Clerk *pro tempore*, in addition to the signature of the other person occupying either office.

Approval of Minutes of each Diet.

18. The Synod is an open court; but it may, like the Presbytery, close its doors when edification seems to require that course.

Openness of Court.

19. The Synod appoints an Officer, who is in attendance at its meetings and executes its orders. At his appointment he promises to perform the duties of his office with fidelity. He has a salary arising from contributions by the congregations, and regulated by the Synod.

Synod Officer.

PART II.—*Powers and Functions of the Provincial Synod.*

A Provincial Synod in the Free Church of Scotland is mainly a Court of Review.

Limits to Powers.

1. At each ordinary or fixed meeting, there must be at least two diets or sessions to enable the Synod to ascertain its business in due order, by the appointment of a Committee or Committees, whose report or reports may be submitted, before any subject is taken up for judgment or discussion.

Two Diets at least.

2. Immediately after the Minutes, or the Heads of the Minutes, of last ordinary meeting have been read over, the subjects which they show to require renewed consideration at the existing meeting are taken up in succession.

Subjects taken up in succession.

3. At the first diet, either two Committees are appointed, one for Overtures and the other for Bills, or one Committee, which is called the Committee for Bills and Overtures.

Committees or Committee for Bills and Overtures.

4. The Records of Presbyteries are then called for. If any one of them be not laid on the table, the Clerk of the Presbytery, if present, is asked to explain the reason. Any Member of Presbytery present may give the explanation. If it be not satisfactory, the Presbytery is liable to censure. A small Committee is appointed to examine each of the Records laid on the table, with an instruction to report at the next diet.

Records called for.

5. Other Committees are appointed at this diet, if the Synod see cause, in order to expedite the business, with an instruction to report, either at the next diet, or at a future diet of the same ordinary meeting.

Appointment of other Committees.

6. Intimation is publicly made of the time at which the second diet will commence, before the adjournment taking place at the first diet.

Intimation of second Diet.

Meeting of Committee for Bills and Overtures.

7. (1.) Between the close of the first diet and the commencement of the second diet, the Committee or Committees on Overtures and Bills meet for the purpose of preparing the business of the Synod, in so far as it is not merely of a routine character. The Moderator and Clerk of the Synod are, *ex officio*, Moderator and Clerk of the Committee on Overtures. Where there is a separate Committee on Bills, that Committee elects its own Moderator and Clerk.

Overtures.

(2.) An Overture is a proposal made by the Synod to the General Assembly for an alteration in ecclesiastical rules and arrangements, or for some course of action in other matters competent to the Assembly. Every proposal for such an Overture must be subscribed by one or more members prepared to support it, and must be presented to the Committee, with the view of its being transmitted by them to the Synod. The Committee are called upon to judge whether the Overture be in due form and competent, and to transmit it or not to the Synod, in accordance with their judgment. An appeal may be taken to the Synod against the judgment by any one of the parties concerned. And a dissent and complaint may be entered against it by any Member of Committee.

Bills.

(3.) Under the head of Bills are included all References from Presbyteries, all Appeals, and Dissents, and Complaints against their decisions, and all Petitions to the Synod. The papers in such cases must be accompanied by a Petition to the Committee to transmit them, signed by some party concerned, or by some one acting for a party concerned. The Committee must judge as to the formality and competency of all such papers, and must resolve to transmit them, or not to transmit them accordingly. Any of the parties may appeal to the Synod against this judgment. And any Member of Committee may enter a Dissent and Complaint.

Reports on Overtures and Bills.

(4.) The Minutes of Committees on Bills and Overtures constitute their Reports, and in those Minutes they narrate their proceedings, give a list of all the papers brought before them, and thus bring those transmitted by them before the Synod.

Reports of Committees.

8. The Synod, at its second diet, calls for the Reports on Overtures and Bills which are given in and read, and any Appeals or Complaints against the judgments of the Committee or the Committees are disposed of. Thereafter the Synod, having now its whole business before it, proceeds to arrange that business in what seems the most suitable order. This order includes the

fixing of the time for receiving the Report of any Committee appointed by the Synod. The Committee or Committees on Overtures and Bills may meet again at the interval between any diet and the next diet, provided the special leave of the Synod be granted to that effect.

Rules of Discussion, etc., etc.

9. The rules for the discussion of proposed Overtures to the General Assembly; for dealing with References from Presbyteries, Appeals, and Complaints against their judgments, and Petitions; for the putting of motions against one another; for the taking of the vote; for the entering of Dissents, Appeals, and Complaints to the General Assembly, and for the making of references to that Court, are the same, *mutatis mutandis*, with those mentioned in reference to the business of Presbyteries.

Appointment of Corresponding Members.

10. The practice as to the time of appointing Corresponding Members to neighbouring Synods varies in different Synods. In some Synods the appointments are made at the first diet. In other Synods they are made at a later diet, or even at the last diet.

Collections.

11. Synods are enjoined by an Annual Act of Assembly to take a particular account of the diligence of their Presbyteries as to the making of the appointed Collections for the Schemes of the Church, and to record the result in their Books. (See the Act each year.)

Record, Responsibility to Assembly.

12. The Synod is responsible for the keeping of its permanent Record to the General Assembly, just as the Presbytery is responsible to the Synod. The Record must be sent up to the Clerk of Assembly, so that it may be laid on the table of the Assembly.

CHAPTER IV.

The General Assembly.

Part I.—*Constitution and Officials of the General Assembly.*

Temporary character.

1. The General Assembly differs from the Inferior Church Courts in the circumstance that, as a body, it has no permanent existence. Whatever powers or functions belong to the General Assembly, belong to it entirely as a representative and temporary body.

Membership.

2. The General Assembly consists of an equal number of Ministers and Elders, commissioned annually by each recognised Presbytery of the Church. The exact number to be elected and commissioned by each Presbytery is fixed from time to time, by Act of Assembly, with consent of a majority of Presbyteries.

Rules for regulating number from each Presbytery.

3. Two principles, at least, are held to be permanently fixed in the constitution of the Free General Assembly, viz.,—(1.) That the number of Ruling Elders commissioned by each Presbytery shall be equal to the number of Ministers; and (2.) That the proportion of representatives from each Presbytery shall be just and fair as compared with the representation from other Presbyteries.

Duty of Assembly, etc., to furnish information as to election of its Members.

4. The General Assembly furnish every Presbytery with adequate information as to its proportion of representation.

Ministerial representatives, Ruling Elders representative.

5. The practice of the Church makes it necessary that the *Ministers* commissioned to represent a Presbytery in the Assembly must all be members of that Presbytery or assessors thereto. But a Presbytery may be represented by any Ruling Elder of the Church, *who is otherwise qualified*, whether he belong to that Presbytery, and be under its jurisdiction or not. This includes professors who are members of a Kirk-Session.

Certificate *bonâ fide* as to an Elder acting.

6. The Act XII., Assembly 1839, requires that no Ruling Elder shall be held qualified to represent a Presbytery in the General Assembly who is not *bonâ fide* an Acting Elder in the Congregation in which he holds office, and that, along with every Commission in favour of a Ruling Elder as Commissioner to the General Assembly, there be produced a certificate from the Kirk-Session of his Congregation, to the effect that he is *bonâ fide* an Acting Elder therein. Without this certificate no Ruling

Elder is allowed to take his seat in the Assembly. It has since been enacted by Act IX., Assembly 1863, that there be added to this certificate the statement that the Ruling Elder 'has signed the formula.'

Date and duration of Meeting.

7. The date and duration of the General Assembly's ordinary sittings may be regarded as fixed for a Tuesday in the month of May not earlier than the 18th of that month, and not later than the 24th, and thereafter extending into the following week, as may be necessary. There is, nevertheless, no other authority for this practice except the determination of each preceding Assembly. Either the preceding Assembly, or the Church at large, through some adequate combination in an emergency, might resolve to have a General Assembly called at a different period of the year. On the same principle, the question as to the *place* of meeting is quite an open one each year, although considerations of convenience and propriety have, since the Revolution, prevailed in favour of Edinburgh as the settled locality for the ordinary meetings of Assembly.

Opening of General Assembly, etc.

8. By long-established practice, which is maintained and regulated through the instrumentality of a Committee of the last Assembly and of the Clerk of Assembly, the Commissioners elected by the several Presbyteries convene together for public worship, at ten o'clock forenoon on the day appointed, in the hall set apart as the place of meeting for the Assembly. The Moderator of the last General Assembly officiates at this diet of worship, and after sermon announces that the General Assembly will be constituted immediately thereafter, and proceeds to constitute it by engaging in prayer.

Moderator of last Assembly presides at first.

9. By the same long-established practice, the Moderator of the last Assembly, if his name appear in the list of Commissioners elected by his Presbytery, takes the chair as in the meantime Moderator of the Meeting of Commissioners now convened. If his name do not appear in that list, the Pastor, or Ordained Minister, though not a Pastor, who, being named among the elected Commissioners, has more recently filled the office of Moderator of the Assembly than any other elected Commissioner, is called to preside in the meantime.

Constituting of Assembly.

10. The person acting as Moderator at the opening of the Assembly having constituted the meeting with prayer, the business proceeds upon the assumption, in the meantime, that the Commissions from the Presbyteries are all in due form, and that all the Ministers and Elders named in those Commissions have been duly elected. In case, however, of any vote being taken previously to the examination of the Commissions by a Committee, it is always clearly understood that the result of the vote may possibly be altered through that examination.

List of Commissioners read over.

11. The old practice of reading the whole list of the Commissioners has been abandoned, and, as a printed list of them is in the hands of all the members, the attention of

members is called to the list, and corrections are invited. This is done immediately after the Assembly has been constituted. The order in which the list is printed varies from year to year, the returns from each Synod being taken in order of rotation. The membership having been thus so far ascertained, the next business is the choice of a Moderator. That choice is absolutely free. Any member may propose any Pastor or Ordained Minister, though not a Pastor, as a candidate. But the office is so important that it is felt to be inexpedient to leave the nomination to it practically uncertain till the day of meeting. Consultations are commonly held beforehand, in order that the person to be elected may have the opportunity of preparing himself for his duties. The proposal of his name, therefore, by the retiring Moderator, and the seconding of that proposal by some distinguished member of the House, have thus come to be a matter of course, except on very extraordinary occasions.

Election of Moderator.

His introduction to the Chair.

12. As soon as the Moderator has been elected, it is usual for the Clerk of Assembly, accompanied by one or two Senior Ministers and Elders, to go out of the House and announce to him his election. He then comes in, accompanied by these brethren, and the retiring Moderator having made the same announcement in a more formal manner, gives to him the right hand of fellowship, and vacates the Chair, which is immediately occupied by the elected Moderator, who proceeds to deliver an Introductory Address.

Standing Orders held as read.

13. After the delivery of the Moderator's Address, it is usual for the Assembly to supersede the reading of the Standing Orders, and simply to accept them as read. A copy of them, with the latest alterations, ought to be in the hands of every Minister and of every Kirk-Session or Deacons' Court.

Vacancies filled up.

14. After the Standing Orders have been held as read, it has been customary to fill up any vacancy which may exist in any office of importance to the conduct of the business, such as that of Clerk.

Clerk of Assembly.

15. The Clerks, at their appointment, solemnly promise to discharge their duties faithfully. They have salaries paid out of the funds at the disposal of the Assembly.

Officers.

16. The General Assembly also appoints an Officer who is directly responsible to the Assembly, and promises to perform his duties faithfully. He has a salary out of the funds at the disposal of the Assembly. During the sittings of the Assembly, he is usually authorized to employ several other temporary Officers, for whom payment is provided out of the same funds.

Committee to arrange Business.

17. After the filling up of vacancies in such offices as those now mentioned, the Assembly appoints a Committee for the arrangement of its business. It then appoints a Committee on Bills and a Committee on Overtures. These Committees correspond to the similar Committees already mentioned as appointed by Provincial Synods.

Committees on Bills, Overtures and Commissions.

18. It is the uniform practice for the Assembly to take up no further business at this diet, except proposals which arise out of peculiar circumstances over which the Assembly has no control, - such as a proposal for a Committee to prepare an Address to the reigning sovereign.

Committee to prepare Address to King.

After arranging any such business of an interesting or pressing character, the Assembly usually adjourns in the afternoon, not to meet again till the next forenoon.

19. The practice of the Free Assembly is to occupy part of the forenoon diet on the second day of the Assembly's sittings with devotional exercises. These are conducted by the Moderator and by others under his direction.

Second day.

Devotional Exercises.

20. When the Report of the Committee on Overtures as a Committee on Commissions is taken up, there may be appeals or dissents and complaints against any judgments of that Committee. After receiving the Report, the Assembly hears the parties in such appeals or complaints in regular form, and sustains or rejects any particular Commission, or the election of any particular Minister or Elder, as it judges right. If the requisite certificate from a Kirk-Session on behalf of a Ruling Elder be not forthcoming when the Commission is otherwise good, the usual deliverance is a declaration that the Ruling Elder referred to cannot take his seat until the omission be supplied, but that if the certificate shall be afterwards produced his name shall be added to the Roll.

Report of Committee on Commissions.

21. When the Reports from the Committees on Bills and Overtures are taken up, any appeals or complaints from the decisions of these Committees are heard and disposed of in regular form. The matters decided by these Committees all relate to the transmission or non-transmission to the Assembly of the papers brought before them, or to the question as to whether or not these papers form a part of its legitimate business. After the Assembly has disposed of these Reports, the amount and nature of the business before it are within its view, except in so far as any other business may spring out of Reports from Standing or Special Committees, or may be originated through fresh Reports from the Committees on Bills and Overtures. It is not the practice, however, to allow these Committees to meet after the first Wednesday during the sittings without special cause being shown.

Bills and Overtures.

22. The Committee for arranging the business of the Assembly may meet at any period of any day during the sittings; except while the Assembly is itself constituted, when special permission must be obtained. This Committee reports from time to time as occasion requires. If its reports be approved of by the Assembly, the business is arranged and intimated accordingly.

Special cause for additional Meetings on Bills and Overtures.

23. Anything further as to the order and conduct of business is regulated by the Standing Orders, with the exception of the practice followed at the last diet of the sittings.

Committee to arrange Business.

Last Diet.

24. At that diet, after other business has been concluded, the Assembly appoints a Commission, consisting of all the Ministers and Elders who are members of Assembly, and also of one additional Minister, who is named by the Moderator. (See Supplement.) Protestations are then called for, that is, an opportunity is given to any one to protest that some decision of an inferior Court has become final, because some party has failed to prosecute his appeal or complaint. Thereafter, the time and place for the meeting of the next General Assembly are appointed. The Minutes of that whole day's Sederunts are read and disposed of, and the Moderator delivers an address, after which he declares the Assembly dissolved, in the name of the Lord Jesus Christ, the sole Head and King of the Church, and leads the concluding devotions by carrying his audience with him to the throne of grace in prayer, by giving out and causing to be sung a portion of Psalm cxxii., and by pronouncing the apostolic benediction.

Duties of Moderator.

25. The duties of the Moderator of the General Assembly, apart from the opening and closing Addresses, are the same in substance as those of the Moderator of a Presbytery or Provincial Synod. From the place assigned to him in the Assembly's Committees, and from the circumstance that he is always, if present, elected as Moderator of the Assembly's Commission, he is practically raised to a dignity which lasts during the whole interval between the close of one meeting of Assembly and the commencement of another. But, strictly speaking, his office has no existence after the dissolution of that Assembly which chose him to be their Moderator. During the sittings of Assembly he may be requested or instructed, as its organ or representative, to act in various ways, which circumstances may require or suggest. In the absence of the Moderator, it is usual for some Minister who has been Moderator of a previous Assembly, and who is a Member of the present one, to take the Chair. If any question come before the Assembly in which the Presbytery or Synod of which the Moderator is a member are parties, he must, of necessity, vacate the Chair, which is usually taken in the meantime by some former Moderator who is a member of the Court, but not a member of that particular Presbytery or Synod. Any further particulars respecting the duties of the Moderator may be gathered from the Standing Orders.

Duties of Clerk.

26. The Clerk of the General Assembly has the same kind of functions and responsibilities as the Clerks of other Church Courts have. But the peculiarity of the Court, as the Supreme Representative Court over a widely extended Church, occasions practically no small amount of peculiarity in his duties. All needful documents ought to be sent to him from Presbyteries, Synods, and other parties. It lies with him to prepare cases and documents for the Assembly, to execute the Assembly's instruc-

tions, obtaining the approbation and signature of the Moderator, when requisite; to prepare Extracts of Deliverances for parties and Committees; to transmit them or issue them after they have been certified by him as Clerk, and to have the Minutes engrossed in a permanent Record, which must be signed both by the Moderator and by the Clerk. Books and documents belonging to the Assembly are intrusted to the custody of the Clerk. It lies with him to transact business with printers and publishers on the Assembly's behalf, and, subject to the instructions of Committees of Assembly, to arrange practically whatever is required for the convenience of the Assembly or its Commission, or for accomplishing its determinations.

Duties of Officer.

27. The Officer of the Assembly is instructed from time to time in his duties by the Moderator or the Clerk, or by any Committee of Assembly authorised to that effect, or by the Assembly itself in open Court.

Allowance to Moderator, and Salaries to Clerk and Officer.

28. The allowance to the Moderator for his expenses, as well as the Salaries to the Clerk and Officer, are proportioned to what the Assembly believes to be practically the amount of their respective work and obligations.

29. Any further information as to the action of the Clerk or Officer may be gathered from the Standing Orders.

The Legal Adviser and Agent.

30. The General Assembly appoints a Writer to His Majesty's Signet as Agent and Legal Adviser, who takes advice of counsel when necessary, for the Church.

Openness of Court.

31. The General Assembly is an open Court. But, when the nature of any subject before it requires it to do so, it is accustomed to meet with closed doors.

Quorum.

32. Strictly speaking, three Members, including two Ministers, form a quorum of the General Assembly, although, of course, its business is never carried on with so small an attendance.

PART II.—*Powers and Functions of the General Assembly.*

References. Complaints, Appeals, Petitions.

1. As a Court of Review, the General Assembly takes up and considers References, Complaints, Appeals, and Petitions, on the same principle as regulates the procedure thereanent of Presbyteries and Synods. Any rules peculiar to the Assembly in this branch of its functions may be found in the Standing Orders.

(1.) No question which belongs to the jurisdiction of any one of the inferior Courts can be determined by the Assembly until it has first been dealt with, to some extent at least, in that inferior Court, and unless it has been duly brought up by Reference, Complaint, Appeal, or Petition. The Assembly may, indeed, originate any question which might have been originated in a Presbytery or Kirk-Session. But, if it do so, the first step taken must be to remit it to that Presbytery or Kirk-Session,

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unless, on account of some extraordinary emergency, there be sufficient ground for assisting or specially instructing the Presbytery or Kirk-Session, or, on account of the Presbytery or Kirk-Session being under discipline, for superseding it, and appointing either Assessors or a Special Commission to act in its room.

First step when Assembly originates what belongs to Inferior Courts.

(2.) It is undoubtedly in the power of the Assembly, when it sees sufficient cause, to summon any Member or any Court of the Church to appear at its bar, or at the bar of its Commission. It may also send precise orders to particular Synods, Presbyteries, and Kirk-Sessions, prescribing the exact course of their procedure in special cases, and giving instructions or prohibitions at its pleasure, provided it keep within the ecclesiastical laws and constitution. But the spirit of those laws and of that constitution evidently requires that such exercise of supreme authority be entered upon with great caution, and only when a clear necessity has arisen.

Power of summoning any Member or Court of Church.

(3.) As part of its duty in the Department of Review, the General Assembly examines the records of all Provincial Synods, and pronounces judgments regarding them, on the same principle as that which is followed out by Provincial Synods in the examination of the Records of Presbyteries.

Records of Synods.

(4.) In all cases of Reference, Complaint, Appeal, or Petition, the Extract, and other papers necessary, must be presented to the Committee on Bills, accompanied by a Petition to that Committee, praying them to transmit the same. This Petition should be signed by some party having interest, or by some person acting for such party.

Transmission through Committee on Bills.

2. The General Assembly has the power of constituting new Synods and Presbyteries, and of dividing or altering old ones. The Assembly also fixes the times for the stated meetings of Synods, and determines the powers of Synods and Presbyteries as regards their places of meeting.

Power of constituting Synods and Presbyteries, etc., etc.

3. The General Assembly receives, considers, and takes action upon Overtures from Synods, Presbyteries, or Members of the House. It sometimes, of its own accord, appoints a Committee to prepare and present an Overture.

Action upon Overtures.

(1.) Overtures, not originating in the Assembly itself, must be presented to the Committee on Overtures, and by them transmitted to the Assembly, before they can be considered.

Transmission of Overtures by Committee.

(2.) Overtures may contain suggestions as to procedure which the Assembly has entirely in its own power, such as the appointment of Committees, and the instructions to be given to them; representations to be made to Government or to other parties; deputations to be sent on Commissions for visiting parts of the Church; Pastoral Addresses; communications to be made to other churches; or special steps competent to the Assembly to be taken with reference to any matter of interest. In considering Overtures of this kind, the Assembly acts entirely by its own

Procedure as to Ordinary Overtures.

authority, and comes to such judgment or determination on the subject of them as it deems suitable. When an Overture has been taken up and read by the Clerk, it is usual to hear, in the first instance, some Member of Assembly who has been concerned in introducing it, whether in a Synod or Presbytery or otherwise. But no one is called as a party, and all Members of Assembly are equally entitled to vote upon the question raised.

Overtures for New Law, etc.

(3.) Overtures may suggest the enactment of some new law, or the alteration of an existing law. In that case they must be dealt with on the principle of the Barrier Act, by which the legislative functions of the Assembly are limited and regulated.

Barrier Act.

4. Although the General Assembly is invested with the power of regulating the whole action of the Church in its Synods, Presbyteries, and Kirk-Sessions, still it is not regarded as having any lordly or absolutely binding authority. It is expected to act ministerially under Christ, and to carry out such rules as appear to harmonize with His own instructions in His Word. Consistently with the principles of Presbyterian Government, all reasonable means ought to be taken for keeping the action of the Assembly in accordance with the general mind of the Church, inasmuch as all the Ministers and Ruling Elders are entitled and called upon to judge for themselves as to the mind of the Great Head of the Church. Still it is held that, as Christ requires good order to be maintained in His Church, it is needful for the Assembly to act legislatively as well as judicially. But a particular course of procedure has been devised for preventing any innovation, and for securing due deliberation and harmony in the enactment of new laws, and in the alteration of old ones. An Act (commonly called the *Barrier Act*) was passed in 1697 through which the course of procedure referred to has arisen.

Action under it.

(1.) When the General Assembly approves of a proposal for fresh legislation made in an Overture or Overtures transmitted to it through the Committee on Overtures, or prepared by another Committee, according to the Assembly's instructions, it is not permitted to pass the proposal at once into a law that shall have permanent effect. It can only agree to transmit the same in the form of an Overture to the several Presbyteries of the Church for their opinion.

(2.) Each Presbytery, in giving its opinion, must either approve of the Overture *simpliciter*, and without alteration, or it will be held as disapproving of it.

(3.) The Clerk of Assembly is instructed to have the Returns from Presbyteries, as to their approval or disapproval of Overtures, printed in a tabulated form, and put in due time into the hands of Members of the next General Assembly.

(4.) The next General Assembly appoints a Committee for the purpose of classing the Returns to the Overtures transmitted, and reporting to that Assembly what the result appears to be.

(5.) If it appear that a majority of the Presbyteries have not approved *simpliciter* of any Overture transmitted, the Assembly may either pass from the subject or re-transmit the Overture either in the same form as before, or with alterations. But the Assembly has no power to pass it into a permanent law.

(6.) When it appears that a majority of Presbyteries have approved *simpliciter* of any Overture transmitted, the General Assembly, if it be of the same mind as the preceding Assembly, may pass that Overture into a Standing Law of the Church. But it is a mistake to suppose that there is any obligation upon the Assembly to do so, or that the matter is absolutely settled through the approval by a majority of Presbyteries. That approval is simply the necessary preliminary to make it competent for the Assembly to pass such an Act. But the new legislation is effected only by an Act of the General Assembly passed through its own free and independent voice.

Interim Acts.

(7.) If the object of an Overture transmitted to Presbyteries appear to any General Assembly as of urgent practical importance, it is competent for that Assembly, while transmitting the Overture to Presbyteries, to pass it, at the same time, into what is called an Interim Act. Such an Act has force only till the meeting of the next Assembly.

Remit not under Barrier Act.

(8.) The General Assembly may remit any subject to Presbyteries for their opinion apart from the terms of the Barrier Act, when it is not proposed to found any legislative change or declaration upon the returns.

Declaratory Acts.

5. It is competent for the Assembly to pass Declaratory Acts. These are Acts which declare what the Assembly understands the law of the Church to be. Such an Act may be passed, without transmission to Presbyteries in terms of the Barrier Act, when it is generally agreed that the declaration is in accordance with the old law. But if there be much difference of opinion on the subject, and if the point enforced be new, in any considerable measure, to the existing Ministers and Ruling Elders, it has been held that, before the passing of such an Act, an Overture on the subject ought to be transmitted to Presbyteries, in terms of the Barrier Act.

Substance of Act may be applied.

6. There are some subjects in which the Assembly takes action to which the Barrier Act cannot be strictly applied, such as the rules to be observed in the administration of important funds, but to which, in some cases, it has been found expedient to apply the substance of the principle involved in that Act. In such cases, the same rigidness of interpretation is not applied in judging of the Returns from Presbyteries, which is exercised in what belongs to the proper legislation of the Church.

Committees, two classes:

7. The General Assembly has inherently the same power of appointing Committees as belongs to a Synod or Presbytery. There is a difference in the case of the Assembly, arising from the circumstances in which it meets, and its peculiar functions.

This difference appears in the appointment of two entirely different classes of Committees.

(1.) Assembly's Business during Sittings.

(1.) The first class consists of those which are intended exclusively for the purpose of expediting the business of the Assembly during its sittings. In this class are included the Committees on Bills, Overtures, and Commissions; the Committee for arranging the business; the Committee for classing Returns to Overtures; the Committee for examining the Records of Synods, the Commission Record, and the books of Standing Committees; the Committees appointed to consider cases of application for Colleagues and Successors, for the sanctioning of Pastoral Charges, for Sales and Transferences of Property, and for expediting the trials and licensing of Students; the Committee for preparing an Act anent Collections, and other Committees, the appointment of which springs out of the business, and whose final reports must be given in and considered before the close of the Assembly's sittings. Any further information respecting these Committees will be found in the Standing Orders.

(2.) Prosecution of objects during year.

(2.), The second class of Committees embraces all those which are appointed to carry out the operations undertaken by the Assembly, and to prosecute the Assembly's objects during the year that intervenes between the close of one Assembly and the opening of another.

Appointment of Collections.

8. The General Assembly has the power of appointing Collections to be made at the Church-doors of all the Congregations, in support of the objects for which the second class of Committees are appointed. It usually exercises this power by passing an Act anent Collections, upon the Report of a Committee to that effect; the Committee having been appointed during the sittings of the same Assembly.

Dissents.

9. After any judgment has been come to by the General Assembly, which has not been unanimous, a member who dissents from it has the same right of entering his dissent against it as he has in an inferior Court. This dissent, in order to be received, must be tendered immediately after the decision has been pronounced, and before the Assembly proceeds to any other business. If the reasons for it be given along with it to the Clerk, in writing, they are entered upon the Minute. But if they are not given in till afterwards, they are not so entered, but are inserted in a separate Record of Dissents. When a dissent has been tendered by a member immediately after the pronouncing of the judgment dissented from, it is competent for any other member or members who were present when it was pronounced to intimate *his* or *their* adherence to the dissent at any subsequent diet of the Assembly's sittings. But no one's adherence can be received who was not so present.

Effect of Dissent.

10. The General Assembly being the Supreme Court of the Church, there is no room for any other procedure against its

decisions except that of dissent with reasons. There is no room for Complaint or Appeal. By dissenting with reasons a man keeps his conscience clear from the responsibility of what he does not approve of. And his appeal goes up to the Head of the Church on high.

Mode of executing decisions.

11. The General Assembly sometimes takes the whole business of intimating and executing its own judicial sentences into its own hands. Most frequently, however, it remits to the Presbytery or Kirk-Session of the bounds to carry out its determinations.

Extracts.

12. Parties in cases that have come before the General Assembly are entitled to Extracts, as in the Inferior Courts. The fact that the Assembly is supreme, and that thus there is no room for Appeal or Complaint, makes a difference as to the position of parties with reference to Extracts. But with a view to the execution of the Assembly's orders, and the carrying out of its objects, there is a general necessity for Extracts containing its Deliverances. Such Extracts are largely required by Church Courts, Committees, and individuals. Consequently the rule in practice has come to be more liberal as to the giving of Extracts by the Clerk of Assembly, than it is as to the giving of them by the Clerks of Synods, Presbyteries, and Kirk-Sessions. The Clerks of the Inferior Courts are not allowed to give Extracts without the special orders of those Courts. But it is understood that the Clerk of Assembly, without any formal instructions, gives Extracts of Deliverances to all parties who have any kind of interest in those Deliverances.

No fees are charged for Extracts given by the Clerk of the General Assembly.

Expenses of Assembly.

13. The General Assembly is allowed to exercise the power of appointing collections to be made or contributions to be given from local funds under charge of Deacons' Courts, or from central funds under charge of Committees, for the purpose of defraying its needful expenses, the needful expenses of its Commission or Commissions, and of such of its Committees as have no funds of their own. These purposes are at present accomplished by combining two sources of revenue, viz.,—(1.) A small contribution required from every Deacons' Court, in connexion with the transmission to it of a copy of the printed Acts and Proceedings of the last Assembly, Reports of that Assembly, and a Statement of the Public Accounts for the year; and (2.) A particular rate of contribution required annually from each Committee of Assembly which obtains funds annually by any appointed mode of collection.

Appointment of Professors.

14. The General Assembly appoints Theological Professors and Lecturers, after receiving a Report from a Standing Committee.

SUPPLEMENT TO CHAPTER IV.

The Commissions of Assembly.

1. The Ordinary Commission is appointed by every General Assembly in the manner already explained. The long-continued practice of thus appointing it has made it appear like a fixed Court in the constitution of the Church. But it is not so, and its existence in any one year depends upon the passing of a special Act by the General Assembly. **Relative position.**

(1.) The Act requires a quorum of fifteen, eight of them being Ministers, to make a valid meeting of this Commission. **Quorum.**

(2.) Three stated meetings are appointed for it, viz., the First Wednesday of March, the Second Wednesday of August, and the Third Wednesday of November. **Meetings.**

(3.) The Act empowers the Commission to meet oftener than at the stated diets, 'when and where they shall think fit and convenient.' But no private process can be determined by the Commission except at one or other of the three stated diets. It has been usual for the Moderator of the last Assembly to give public notice that there is a desire for an extraordinary Meeting of Commission at a particular place and time, when that desire has been expressed to him. Obviously the Commission may meet upon an emergency in order to fulfil the instruction to see that the interests of the Church shall not be injured by any unexpected circumstance. **Extraordinary Meetings.**

(4.) When the Commission meets, it recognises no special position as belonging to the Moderator of the last Assembly, but, being empowered to choose its own Moderator, it proceeds to an election. It usually fixes upon the Moderator of last Assembly, if he be present. **Moderatorship.**

(5.) What is determined at one diet as to private causes, cannot be altered at another diet, but continues in force, unless disapproved of by the next General Assembly. **Force of decisions in private causes.**

(6.) In the particular causes and matters referred to the Commission, its sentences are final. In judging of these causes and matters, it acts as the Assembly does. But it cannot execute its own sentences. If any one of them be disobeyed, the matter must lie over till the meeting of the next Assembly. Protests and complaints may be taken against sentences of the Commission, on the ground of their being *ultra vires*, or contrary to law, and the matter may be brought up to next Assembly. But no such process will justify disobedience in the meantime. If the Commission appear to have exceeded its powers, the next Assembly may censure those who have concurred in the sentence or sentences involved. If it appear to have acted in any way contrary to the Acts or Constitution of **Finality of Judgments.**

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the Church, the next Assembly may overthrow and reverse its procedure.

Subjects that may be taken up.

(7.) The Commission cannot take up any cause or matter which has not been specially referred to it by the General Assembly, except when anything of public interest occurs, which is of general concernment to the whole Church. In this case, it is instructed to advert to the matter, and to see that the Church do not suffer or sustain any prejudice which it can prevent, as its members shall be answerable.

Record.

(8.) The proceedings of the Commission must be carefully recorded, and the Record must be submitted to the Assembly for examination. The Clerk of Assembly is also Clerk to this Commission. By a recent Act, the Commission is required to appoint at each of its Meetings a Committee to revise the Minutes of that Meeting, and a copy of the Minutes thus revised, is appointed to be sent to the Moderator for his signature, which must be obtained before Extracts can be given by the Clerk.

Special Commissions.

2. From the account now given of the origin and constitution of the Ordinary Commission, it may be easily seen that, in the exercise of the same power by which the General Assembly appoints it, and gives to it the functions which it exercises, the Assembly may appoint Special Commissions at its pleasure. Extraordinary specialties in particular causes, and extraordinary emergencies in the state of the Church or the country, may justify, and have justified, the exercise of this power. But it ought not to be had recourse to lightly, and the employment of it ought to be jealously watched. For any method of procedure which in the smallest degree supersedes the ordinary action of the ecclesiastical constitution, appears dangerous, on Presbyterian principles, if it be carried at all beyond what the good of the Church demands.

Extracts.

3. The Clerk of the Assembly is expected to act in the same way regarding Extracts in the case of the Ordinary Commission as he does in the case of the Assembly itself. Any question as to Extracts in the case of Special Commissions must depend on the terms of their appointment.

CHAPTER V.

Discipline.

Part I.—*Principles and Processes common to all the Courts, or to two or more of them.*

1. Church Discipline is held to be of great use and necessity in our ecclesiastical system. It is regarded as belonging to that government which Christ has instituted in the visible order of His kingdom, and which, by His institution, is essentially distinct from the government of civil magistrates. Scriptural character.

2. It deals chiefly with church members. But the adult children of members, and all adherents, are also amenable to it, when they fall into gross sin. With whom it deals.

3. It admits of nothing as a ground for its action but what has been declared censurable by the Word of God, or by some act or universal custom of the Church agreeable thereto. It does not apply to every kind of sin, but to those sins only which occasion scandal, or tend, by their character, to bring open reproach upon the cause of Christ, or to interfere manifestly with spiritual edification. Inquisitorial watching of private conduct, ultroneous intermeddling with family concerns, or attempts to drag secret sins into light, are not encouraged by it. On the contrary, the Presbyterian system of action in it is fitted to discountenance and rebuke everything of that kind. What is admitted as ground for action.

4. In all cases where the inconsistent conduct of a member of the Church in any position has been flagrant, where a prejudicial report or *fama* is wide-spread, and where scandal has been raised, it is held necessary for that Church Court which, according to ecclesiastical rule, has at the time the most immediate jurisdiction over the party, to take steps for the formal exercise of discipline. When steps must be taken, and by whom.

5. In cases where no palpable scandal has come into public notice, much wholesome discipline may be exercised by private conference, without the formality of an appearance before a Church Court. It is thought that the rule laid down by our Lord himself (Matt. xviii. 15) fully justifies the exclusive use of an affectionate and faithful private dealing by a pastor or ruling elder with an offending party, when the conspicuousness of the offence Private Conference.

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is not such as to make public or judicial action requisite for the vindication of truth or purity. Much good has been frequently accomplished in this way, when a rigid determination to call the party to account before a Church Court would have produced no other result than irritation and resistance. It is felt that a spirit of love and tenderness is essential to the efficacy of discipline.

Old Scandals not to be revived.

6. It is laid down, as a practical principle of Christian judgment, that while the several judicatories of the Church ought to take *timeous* notice of all scandals, a scandal which shall happen not to be noticed in order to censure for the space of five years should not be again revived, so as to enter in a process thereanent, unless it be of an heinous nature, or become again flagrant; but that the consciences of such persons ought to be seriously dealt with in private, to bring them to a sense of their sin and duty.

Cases decided not to be renewed.

7. No case of discipline, upon which a final decision has once been pronounced in regular form by a competent Church Court, can be renewed again by any process, unless it can be shown that new grounds of action have arisen which were not before that Court.

Church Court to consider first how far they have to do with a case.

8. When any case involving discipline is brought forward in a Church Court, whether by information, petition, or otherwise, they are called upon to consider, first of all, whether the matter be one which they ought to enter upon in the circumstances; whether it be orderly introduced to them; and whether it be competent or constitutional for them to take it up, and discuss it themselves, without submitting it either to a superior or an inferior judicatory.

Citation.

9. Before proceeding to consider the merits of any case of discipline, the Church Court is bound to ascertain that all the parties concerned have been duly cited to appear before them. Citation may be duly given either *apud acta*, as it is called, when parties being present at a meeting of the Court they are openly warned and summoned during the regular transaction of business, or by a written document bearing on it the cause of citation, and carrying with it the authority of the Church Court. It ought to be issued in ample time before the day appointed for the appearance, so as to leave no excuse for absence on the ground of too short notice. It ought to be delivered through registered post or be conveyed to the residence of the cited party or parties by the Officer of the Church Court, and the delivery of a copy of it ought to be certified in writing by two witnesses; after which, the Officer should return it, with the evidence of the summons having been executed, to the Clerk of the Court. At the meeting of the Court on the day appointed, the first step, after the due execution of the summons has been intimated by the Clerk, is to have the party or parties called at the door.

Second citation.

10. If, after a citation has been duly executed, a party cited do not appear, a second citation ought to be executed in the

same form and manner; and if, after its due execution, the party do not appear, it should be followed by a third.

Apud acta citation.

11. When, in consequence of an appeal, complaint, or reference from an inferior to a superior judicatory, a party has been cited *apud acta* to appear before the superior judicatory, there is no occasion for any further citation, provided the fact of the citation *apud acta* be inserted in the Minutes of the inferior judicatory, and appear in the Extract of Minute presented to the superior.

Censure for contumacy.

12. If a party do not appear after a third citation, or after a citation *apud acta*, which has been regularly recorded, and, if need be, intimated to the superior judicatory by Extract, and if no relevant excuse be adduced and verified, such party is liable to censure for contumacy.

13. Even in such a case as that referred to in Section 12, it may often be advisable to take evidence with relation to the *fama* or *charge* against the party, before censuring him for *contumacy*.

Modes of bringing up a case.

14. A case of scandal, requiring the exercise of Discipline, may be brought before a Church judicatory, either (1.) by an accuser or accusers, who may take the responsibility of representing it or giving information regarding it, or (2.) by some member or members of the Court stating that a *fama* has arisen which calls for ecclesiastical action.

Modes for carrying on a case.

15. The process of Discipline may go on, either by the accuser or accusers maintaining the charge before the Court, or by the Court itself investigating the *charge* or *fama* in the faithful discharge of duty, and proceeding therein according to the rules of the Church. When an accusation of a scandalous or serious character has been lodged with a Church Court, or when information involving such a charge has been communicated to a Church Court, the party lodging the charge or communicating the information ought to be prepared to maintain and prosecute it in a competent manner. But the declinature or failure of the party to do so cannot absolve the Church Court from the obligation of taking what steps it can toward the exercise of a scriptural discipline in the matter.

Case of confession.

16. When a case of *charge* or *fama* has arisen, the party involved therein may voluntarily appear before the Church Court having jurisdiction over him, either with the view of confessing the truth of the charge, or the existence or foundation for the *fama*, or with the view of demanding investigation for the vindication of his character. He may even be himself the first person to bring the matter under the notice of the Court. In every one of these cases, every other citation except that of *apud acta* may be dispensed with.

Consideration due to a confession.

17. In a case of confession, the Court must take into careful consideration the character and extent of the confession, before accepting of it, or proceeding either to censure or to absolution

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from scandal. They must endeavour in a prayerful spirit to deal at once tenderly and faithfully with the offender.

Notice to accused party.

18. In every case where there is no confession, and where the Court find good ground for dealing seriously with the charge or *fama*, timely notice must be given to the party accused of the names of witnesses, and of the character of any other evidence that may be brought forward against him. No Court of our Church would be justified in proceeding to take evidence against any one in regular form, with a view to censure, without previously giving him ample opportunity of knowing upon what evidence the charge against him will be maintained, or without affording him adequate time for preparing his defence.

Free Church witnesses.

19. Members of the Free Church, when duly cited by a competent Church Court to appear and give evidence in a cause, are bound to obey the citation, and if they refuse after three citations, are liable to be dealt with as contumacious, unless they can offer a relevant and satisfactory excuse.

Citation of witnesses.

20. The Court are called upon to cite witnesses at the instance of a party accused, as well as at their own instance and at the instance of accusers.

Objections to relevancy, and to competency of evidence.

21. Before the regular examination of witnesses in support of a charge, the accused party is entitled to have an opportunity of stating any objection to the relevancy of the charge as stated, and to the competency of the proposed evidence. Reasons may be found sufficient to disqualify particular witnesses.

Subscription of witnesses.

22. Witnesses should be asked to subscribe their names to their depositions, as taken down by the Clerk of Court. If they cannot write, the Clerk is required to mark that they declare their inability to write; and the Moderator ought, in such a case, to subscribe the deposition, though not subscribed by the party.

Taking of proof, etc.

23. The Church Court must proceed in an orderly way in the judicial taking of proof and hearing of parties on the merits. And, after having given opportunity, according to the rules laid down for its guidance, for a full representation of what can be urged on both sides, they should cause parties to be removed, and enter into deliberation with a view to judgment. The particulars of procedure under this head may be best seen in the subsequent sections.

PART II.—*Processes peculiar to the Kirk-Session.*

Ordinary Members.

1. In all ordinary circumstances it lies with the Kirk-Session exclusively to take the first steps with reference to any occasion for the exercise of discipline over the ordinary members of a Congregation.

Private admonition.

2. Many acts of manifest inconsistency with Christian practice may not, as single acts, require the formal interposition of the Kirk-Session as a body, but may more properly be dealt with on the principle stated in Part I., Section 5. Under this

class may be included acts of drunkenness, breach of the Lord's Day, disobedience to parents, swearing, cursing, scolding, fighting, lying, cheating, or stealing. In looking at such acts, the Kirk-Session and the Members thereof are expected to consider whether the private admonition of persons alleged to be guilty, or even seen to be guilty of such scandals, or the bringing of them into public view, will tend most to edification, and to take action thereanent according to the best of their judgment. The ordinary course with reference to the offences now enumerated, when they appear as single acts, ought to be that the guilty parties be spoken to in private, and admonished by the Minister or by an Elder; and that, upon an acknowledgment of sin, and a promise to amend, no further steps should be adopted.

Single acts may require suspension, etc.

3. It is possible that a single act of any one sin in the list given in Section 2, may be clothed with such circumstances as may be a just ground of formal process immediately, and involve even the necessity of suspension from the benefit of sealing ordinances. But, according to the words of the form of process, the weight of this is to be duly pondered. The existence of the circumstances referred to must not be hastily assumed.

Judicial admonition or rebuke without suspension.

4. If the person duly cited before a Kirk-Session, or otherwise appearing before a Kirk-Session, in connexion with an allegation or *fama* as to any inconsistency of the kind here spoken of, make confession of guilt, a judicial admonition or rebuke must be pronounced by the Moderator in name of the Kirk-Session, and in their presence, or publicly in presence of the Congregation, when the Session judge this to be for edification. If a promise be given, under an apparently adequate sense of sin, to amend, the procedure may cease without suspension from ordinances.

When no confession, charge to be defined, and list of witnesses, etc.

5. If no confession be made, but the party profess innocence, the nature of the charge must be distinctly defined, and a statement must be furnished to him containing the names of the witnesses and a list of the documents by which it is proposed to establish that charge. If he require it, due time ought to be allowed to him for preparing his defence, and for obtaining the evidence of such witnesses as he may wish to bring forward. He may object either to the relevancy of the charge, or to the force of the proof by which it is supported. Careful attention must be given by the Kirk-Session to his objections. The result may be to show either that the charge is irrelevant or that it is not proven. In either case no further procedure can be taken with reference to it. But if all objections be overruled, and the party be found guilty in the judgment of the Session, then, except where circumstances tend to aggravate the offence in the manner suggested by Section 4, it may be sufficient in the meantime that a rebuke be judicially pronounced by the Moderator in the name of the Kirk-Session, and in their presence. But the process is not at an end, if there be no promise of amendment, and no indication of repentance. Such promise or indication may enable

Question of relevancy, etc.

the Session to terminate the matter, when the party has for the first time been accused before them.

Lesser excommunication.

6. If after a rebuke before the Session or the Congregation for the kind of offence referred to, no profession of repentance, and no promise of amendment be tendered within a reasonable time, the Session may be compelled to pronounce the sentence of lesser excommunication, or, in other words, to suspend the party, in a formal way, from the benefit of sealing ordinances.

7. If, after a rebuke before the Session or the Congregation for this kind of offence, and after a profession of repentance with promise of amendment, it shall appear that the profession is not borne out and the promise not kept, and that the party may be reasonably charged again with the same or with a similar offence, the Kirk-Session must proceed in regular form with a view to the lesser excommunication. If no confession be made the case must be proceeded with as pointed out in Section 6, until it be seen whether the new charge be found proven. If it be found proven, the sentence of lesser excommunication must follow. Even if confession be made and repentance appear, they ought not at this stage to prevent a temporary suspension of the party from the benefit of sealing ordinances.

Removal of suspension.

8. Confession, and an apparently sincere profession of repentance, when duly weighed by the Session, and found to be satisfactory, so far as man's fallible judgment can reasonably go, form a sufficient ground for removing a sentence of suspension, and restoring the party to the full communion and fellowship of the Church.

Principle of not raising scandal after five years.

9. The principle of the Form of Process referred to in Part I., Section 6, that a scandal which has not been noticed in order to censure for the space of five years, should not be revived so as to enter in a process thereanent, unless it be of an heinous nature or become again flagrant, has special application to the class of offences spoken of in the eight preceding sections of this Second Part. The application of it to offences of a more palpably grievous character, must be regulated by careful discrimination and Christian prudence on the part of Kirk-Sessions.

10. There are offences which bring such deep and open reproach upon the Christian profession, that it is hardly possible to avoid dealing in regular form with one of them, when any circumstance brings it palpably into view, or when a report is spread abroad regarding it. These offences are to be found chiefly in breaches of the Seventh Commandment.

Seventh Commandment.

11. In cases of accusation with respect to these breaches, it falls frequently out, according to the language of the Form of Process, 'that when the matter is put to the strictest trial, all that can be proven is but presumptions of guilt or scandalous behaviour, and not the act of uncleanness, the same being a work of darkness; and therefore this should oblige the Kirk-Session to be very cautious how to admit the public entering a

Caution in admitting public processes.

process without good warrant, where there is not a child in the case, unless the scandal be very flagrant.'

Private rebuke, etc.

12. 'Many of these actions,' according to the same authority, 'which give occasion to the raising a scandal of uncleanness, are such as are not themselves alone publicly censurable, but to be passed by with a private rebuke or admonition.'

Some actions as censurable as direct acts of palpable sin.

13. 'Some of these actions,' however, according to the same authority, 'may be so lascivious and obscene, and clothed with such circumstances as may be as offensive as the act of uncleanness itself, and as censurable.'

Sentence of less or greater excommunication in view.

14. In the case of any charge or *fama*, which involves an allegation of any such action as those referred to in the preceding section, or of fornication or of adultery, the Kirk-Session cannot allow the process to be entered upon at all without keeping in view that if the party be found guilty, the sentence of lesser excommunication or suspension from the use of sealing ordinances must follow.

Question commonly raised as to taking away scandal.

15. It most frequently happens, under the existing circumstances of the Church and of society, that the first intimation of the scandal, which the Session receive, is in the form of a request by the guilty parties that they may be permitted to appear and confess their sin. In instances of this kind a sentence of suspension appears to be often assumed as existing, although it has not been formally pronounced. The parties have voluntarily submitted themselves already to all the effect of that sentence, and the question raised by them is one as to the taking of it away, or as to the absolving of them from the scandal, and the restoring of them to the fellowship of the Church.

Antenuptial fornication.

16. It seems quite consistent with the spirit of the Form of Process that the Kirk-Session should proceed upon the footing referred to in the preceding section, in cases of a less heinous character, and especially when the sin confessed is that of antenuptial fornication, a sin which, though involving a grievous departure from God's pure and holy law of marriage, may often not be known so as to cause any scandal till long after a marriage has been solemnized. But the Kirk-Session are called upon to look closely at the whole circumstances of each case thus brought before them, and to regulate the course of discipline by what they see to be required for the good of the parties, the honour of Christ, the purity of Christian fellowship, and the edification of the Church. The amount of private dealing, the number of appearances before the Kirk-Session, the mode of administering rebuke, either before the Session or before the Congregation, and the time suffered to elapse before a sentence of absolution is pronounced, may vary according to a Scriptural wisdom and discretion in estimating the effect of discipline in its application to particular matters.

17. When a charge of fornication, brought regularly before a Kirk-Session, is denied by the accused party after due citation

and due appearance before the Court, it is needful for the Session to proceed regularly toward an investigation of the grounds upon which the charge or the *fama* proceeds. They may do this in the first instance by the appointment of a Committee, with instructions to report. Or, if there be any party or parties taking the responsibility of maintaining the accusation, such party or parties may be called upon to bring forward their case that the Kirk-Session may judge of it.

Committee to investigate grounds, etc.

18. A distinct statement of the particular charge or charges, along with the names of the witnesses, and a list of documents, that are relied upon as supporting the accusation, ought to be put into the hands of the accused party, after which, if he or she desires it, time should be allowed for preparing his or her defence.

Distinct Statement, etc.

19. If parties have been already duly cited, and are present before the Court, a citation *apud acta* is sufficient for summoning them duly to another meeting of Kirk-Session to be held on a future day.

Citation *apud acta*.

20. If objections be brought against the relevancy of a charge or charges, or against the competency of particular witnesses, or of particular questions put to them, the Kirk-Session are bound to weigh these objections impartially. They are bound to do this with all the greater scrupulosity when there are no accusers, and when they are prosecuting the matter simply from their own sense of duty.

Objections to relevancy.

21. In practice, the rigidly formal rules as to the citations of parties and witnesses are often greatly modified. A verbal intimation is found in most cases to answer every purpose. Only it ought always to be remembered that no one can be subjected to censure for non-attendance except in disobedience to a regular citation.

Formal rules as to Citation.

22. A similar modification occurs in the taking of the evidence, when the parties are truly desirous of enabling the Kirk-Session to expiscate the truth. Such evidence may be gathered by what may be considered precognition, rather than judicial trial, as may suffice either to establish or rebut a charge, and thereby to effect the acquiescence of all parties in a Sessional deliverance thereanent. The object of a Kirk-Session should always be to bring out the truth, so as to adjust a matter at once in a Scriptural and in a peaceful manner. But if friendly dealing with the heart and conscience fail in settling the question raised, through acknowledgment, either by the accusers or by the accused, of sin or error; and if a party stand upon his or her rights, then the cause of justice requires that the most exact forms of procedure be adopted. It is dangerous to neglect these in any case of difficulty. For no member of the Church can be deprived of his privileges as such, except by the establishment of his guilt with reference to a relevant charge, proved by competent evidence, before a competent Court, and by means of a regular and fairly conducted trial.

Taking of evidence.

23. A charge of fornication involves more than one party, and it is not considered competent to deal with it as regards one party alone, until at least all reasonable steps have been taken to bring the case of the other party under view at the same time. If both parties be members of one congregation, there is no difficulty in dealing immediately with them both. But if they belong to different congregations of the Free Church, the general rule is that the Kirk-Session which has jurisdiction over the woman takes up the case. The ground of this rule, however, being simply the circumstance that, in most instances, the scandal has greatest notoriety where the woman resides, there may evidently be exceptions to its application. If a question arise between two Kirk-Sessions as to which of them shall charge itself with the responsibility of investigating a *fama*, or entertaining a charge against a member or against two members of the Free Church, any such question ought to be referred by each of the Kirk-Sessions to its Presbytery. If they both belong to the same Presbytery, the judgment of that Presbytery will settle the question, unless it be thought advisable by one or more of the parties, or by any member or members of Presbytery, to carry the matter to the Synod by appeal or complaint. If the two Sessions belong to different Presbyteries, then each of those Presbyteries ought to bring the matter before its Provincial Synod, whose decision may be conclusive, if both Presbyteries are under the jurisdiction of the same Synod, and if the Kirk-Sessions and Presbyteries all acquiesce in that decision. If the Presbyteries belong to different Synods, each of the Synods ought to refer the matter to the General Assembly, whose determination will be absolutely final. It is extremely desirable, however, that any such question should be harmoniously settled by an agreement between the two Kirk-Sessions. For the delay occasioned, either by references or by appeals or complaints, may be most injurious to the effectiveness of discipline, and to the spiritual health of congregations. Instead of referring the question to its Presbytery, a Kirk-Session may, after communicating a scandal to another Kirk-Session, and finding that this Kirk-Session will not enter upon the investigation, petition the Presbytery to whose jurisdiction the other Session is subject, calling upon that Presbytery to enforce upon it the duty of taking up the case. It is much better when, by friendly correspondence, all occasion for this kind of action is prevented.

Reasonable steps as to both parties in a case.

24. As both parties must be cited in the case of a charge of fornication, even when they are members of different congregations, it is necessary that intimation of the charge be made by the Session which takes up the case to the Session which does not take it up, in order that the latter Session may cite the party who is under its jurisdiction to appear thereanent before the former Session. The same course must be taken with respect to witnesses who, being members of the Free Church

Intimation by one Session to another.

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of Scotland, are not members of the same congregation as that to which the party principally accused belongs.

Witnesses who cannot attend.

25. When, from any cause, the personal attendance of a witness cannot be obtained, a certificate or affidavit from him may suffice, or two or more of the Session may be appointed to take his evidence.

Acceptance of timely confession by two persons.

26. If two parties appear together confessing themselves guilty of antenuptial fornication, although no child has yet been born, the confession may be accepted of, and the case proceeded with, until they are absolved from scandal. For such timely appearance and confession generally indicate a better understanding of the position in which their sin has placed them, than when an acknowledgment follows the birth of a child. But if only one party make confession before the birth, it has been found more expedient to sist procedure till after the birth. If, where one party only confesses, no child is born at all, the Session is required to exercise much caution before proceeding against any other party named, whose guilt it may be impossible to establish.

Naming of father.

Contumaciousness.

27. A woman confessing guilt with reference to the birth of her child is called upon to name the father. If she refuses to do so, she is dealt with as *contumacious*. If she declares that she does not know who the father is, procedure is delayed until advice be received from the Presbytery.

Denial of accusation.

28. If a man, accused by a woman, appear and deny the accusation, the woman is required to adduce evidence in support of her averment. Every fair effort should be made to ascertain the truth. If the woman has had more than one illegitimate child previously, and if the man has hitherto borne a fair character, she must furnish some *primâ facie* good evidence before the Kirk-Session can be justified in even citing the accused party.

Means for ascertainment to be exhausted.

29. If the man named by a woman confessing guilt do not belong to the Free Church of Scotland, all reasonable endeavours should be made by the Kirk-Session to induce him to declare, either in writing or verbally in presence of the Session, or some of its Members, whether or not he is the father of the child. For the Kirk-Session are not justified in acting upon a woman's confession, so as to absolve her from scandal, until they have exhausted the means within their reach for ascertaining the paternity.

Acknowledgment of guilt sufficient.

30. Sometimes the paternity is denied, while guilt otherwise is acknowledged. Such acknowledgment is held sufficient, unless proof can be adduced that the woman had connexion with another person, or unless her character be notoriously bad.

Oath of Purgation.

31. A rare case may occur, in which a man accused apparently without good reason, desires to take what is called the *oath of purgation*. This is not allowed, however, except on very special grounds, and never without authority from the Presbytery.

Recording of documents and evidence.

32. When evidence is brought forward and witnesses are examined in a regular trial before the Session, all documents produced and admitted must be recorded, and the statements of witnesses in answer to relevant questions must also be recorded. It may often be expedient for the Kirk-Session to open a separate record for the insertion of their procedure with reference to a particular case of discipline, and, by referring in their Ordinary Minute to this separate Record, they may sufficiently authenticate it. But it partakes of the same nature with their Ordinary Minutes, and must be kept with equal care, and according to the same rules.

Objections to admissibility, etc.

33. Objections may be taken to the admissibility and credibility of witnesses, which objections the Session may either sustain or overrule. The accused party may cross-examine the witnesses against him, provided the questions put by him are approved of by the Session as relevant.

Solemn declaration equivalent to oath.

34. It was formerly thought necessary that the evidence before a Session should always be given on oath. A solemn declaration is now very generally substituted, to the effect that the witness will speak the truth, accompanied by an assurance that he bears no malice to the party or parties, and is not influenced by partial counsel. Evidence taken in connexion with such a declaration ought not to be identified with statements obtained by a mere precognition. But when received at all, it must be held to occupy precisely the same place as evidence taken on oath.

Decision.

35. When all the evidence offered on either side has been taken and recorded, parties are removed. The Kirk-Session then deliberates in private and comes to a decision. Parties are then called in, and judgment is pronounced by the Moderator.

Effect of Decision.

36. The effect of a Kirk-Session's judgment upon an Ordinary Member may be the infliction of one or more of four censures. It may be—(1.) Admonition, involving affectionate warning of sin and danger, and exhortation to greater circumspection; or (2.) Rebuke after confession or conviction of a scandalous offence, either before the Session alone or before the Congregation; or (3.) Suspension from privileges for a longer or shorter period, or *sine die*, as the result of a confession or conviction, which seems to be identified in the Form of Process with what is called the Lesser Excommunication; or (4.) What in common practice is now the striking off the offender's name from the Communion Roll, and declaring him or her to be no longer a Member of the Church, but what, in the most solemn manner of its infliction, is termed the Greater Excommunication, as described in the Form of Process (Chapter VIII. with reference to 1 Cor. v. 4, 5, and 1 Tim. i. 20). The latter form of Excommunication is rarely now resorted to, and cannot be adopted without the express authority of the Presbytery. In fact, the removal of a name from the Roll, and a declaration

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that the party is no longer a member, are, when adopted as the result of discipline, a milder form of the Greater Excommunication, adapted to the existing circumstances of the Church.

Such suspension distinct from suspension under charge.

37. Suspension from privileges as a censure arising at the close of a judicial investigation ought to be carefully distinguished from the suspension which takes place while a party is only under a charge of sin, which has not yet been proved. The latter suspension is not of the nature of a censure at all. It is simply a step which cannot be avoided in the circumstances, and to which the party must submit, because it would not be for edification that he or she should partake of privileges while subject to a charge of scandal.

Absolution and Restoration.

38. The Kirk-Session absolves from scandal and restores to privileges, when it sees sufficient ground for doing so, after hopeful evidence of penitence has been exhibited. The effect is simply to remove the sentence of Suspension, or the sentence of Greater Excommunication. The Church does not pretend to absolve from sin in the sight of God. But assuming the genuineness of outward professions and appearances, she proceeds on the supposition that the offender has already sought and obtained forgiveness through the atoning blood of Christ. On this footing the Moderator pronounces sentence of absolution in the name of the Lord Jesus.

Cases to be referred to Presbytery.

39. There are cases and occasions which require a Kirk-Session to refer a matter to the Presbytery before proceeding further in it:—

(1.) A charge of incest must be referred to the Presbytery for advice.

(2.) So also must a charge of adultery.

(3.) So also a charge of having fallen into the sin of fornication for the third time.

(4.) So also a charge of flagrant heresy or schism.

(5.) So also a charge of continued *contumacy*, which embraces a resolute refusal to submit to discipline, and a declinature, without good ground, to appear when cited by the Session, either *apud acta* or through three distinct citations.

The reference of such cases, of course, brings up all parties to the bar of the Presbytery, and, strictly speaking, all parties being summoned *apud acta*, are bound to appear at the meeting of Presbytery. But as the Presbytery most frequently remits the matter back to the Session with or without instructions, it can hardly be said that, in practice, the parties are expected to appear at the Presbytery unless the Presbytery shall require them to be specially cited after the reference has been stated.

(6.) When a woman declares that she does not know who is the father of her child, the matter must be referred to the Presbytery for advice:

(7.) If a man expresses a desire to take the oath of purgation,

this desire cannot be acceded to without a special reference to the Presbytery thereanent.

(8.) The more solemn form of the Greater Excommunication cannot be adopted without the authority of the Presbytery.

Greater excommunication.

40. After receiving instructions from the Presbytery in any one of the matters which must be referred to them for advice, the Kirk-Session must adopt the same procedure and follow the same rules in carrying out those instructions as have already been detailed with reference to an ordinary charge of fornication.

Baptism of child of person under discipline.

41. The child of a person under discipline or censure cannot be baptized unless adopted by another member of the Church.

Fugitives from discipline.

42. A member of a congregation who absconds during a process against him, or who leaves the congregation on being dealt with or suspended, is called a fugitive from discipline. A particular course of action with a view to the excommunication of such an one is set forth in the Form of Process. In existing circumstances it is deemed sufficient that the Kirk-Session formally erase the name of the party from the Communion Roll.

Sisting of procedure.

43. When any party is refractory or exhibits an improper spirit, the Session may competently sist procedure until he be brought to a better mind.

Law Agents, etc.

44. No law agent or legal adviser is allowed admission as such to a meeting of Kirk-Session. In particular cases a person might, *e.g.*, be permitted to sit beside an accused party as a friend, but not to take any open part in the procedure; unless authorized by the Session to act for the accused on very special grounds.

Charge or *fama* against Ruling Elder or Deacon.

45. If a charge be brought, or if a *fama* arise against an Elder or a Deacon, the Kirk-Session are called upon to proceed always by means of a preliminary inquiry or precognition. The accused party ought to be made aware of this precognition, so as to have an opportunity of offering explanation. If the accusation or report appear frivolous, or not likely to be proved, it should be allowed to drop. But if the contrary appear, the accused should be faithfully and affectionately dealt with, in order that he may be induced to make a candid statement of the whole truth. If he deny the charge, or say that there is no foundation for the *fama*, the rules of procedure are the same as those followed in the case of an ordinary member, until a judgment upon the effect of the evidence has been arrived at, except that, besides being in the meantime suspended from privileges, he is also *ipso facto* suspended from *office*. If the result of the investigation be that the party is suspended from privileges in the way of censure, or that he is excommunicated, he is *ipso facto* suspended or deposed from office. But the offence may appear such in the view of the Session as to necessitate his suspension or his deposition from office, even when they see no cause for depriving him of privileges, either for a longer or a shorter period.

Intimation of sentence as to Elder or Deacon.

46. A sentence of suspension or deposition pronounced upon an Elder or Deacon may either be read from the pulpit to the

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congregation, or intimated otherwise by the Moderator as may seem most for edification.

Reponement.

47. A deposed Elder or Deacon may be reponed to his office upon good cause shown, in so far as rigid law is concerned. But the cases are very rare indeed in which such reponement is thought to be for edification.

Form of Process.

48. Further particulars with respect to the duties of a Kirk-Session in the administration of Discipline will be found in the Form of Process, which is recommended to the careful study of Ministers and Elders.

PART III.—*Processes peculiar to the Presbytery.*

Division I.—Processes in connexion with the action of Kirk-Sessions.

Consideration of Appeals.

1. The rights of appeal and complaint from a Kirk-Session to its Presbytery are specially applicable to matters of discipline, according to the rules pointed out in Chapter I. Part II., which must be carefully observed. It is an important function of the Presbytery to consider carefully appeals and complaints affecting discipline, and to dispose of them in accordance with the Word of God and the laws of the Church.

Appeals in matters that must come up.

2. When an Appeal or Complaint of this kind is brought before the Presbytery, and it appears that the matter is one which must come before them at any rate, according to Part II., it is not held necessary for them to scrutinize very rigidly the circumstances in which the Appeal or Complaint has been taken, or the reasonableness of it, at that particular stage. It is considered warrantable for them, in order to prevent undue delay, to entertain the matter at once upon the merits, although they may, if they see cause, censure the Appellants or Complainers.

Carefulness as to other Appeals.

3. If the subject of discipline about which there is an Appeal or Complaint be one of which the Kirk-Session are throughout the competent and proper judges, the Presbytery are called upon to be very careful in the entertainment of the Appeal or Complaint, lest the orderly course of Sessional Discipline be frequently interrupted in an untimely and needless manner, or on frivolous grounds. On the other hand, if the Presbytery find that the Kirk-Session have done injustice to an accused party who has appealed, it is their duty not only to free that party, in a formal way, from scandal, and declare his or her innocence, but to take such methods within their jurisdiction as they may judge proper and effectual for vindicating his or her character, and wiping off the effects of the scandal.

Both justice to parties and authority of Session to be maintained.

4. 'Herein the Presbytery is to exercise great prudence, doing justice to the innocent, yet so as not to weaken the Kirk-Session's authority in that congregation, if in justice it can be avoided.'

5. It is competent for a Presbytery, when they perceive errors of judgment on the part of a Kirk-Session in dealing with a case of Discipline which has been brought up by Appeal, Complaint, or Reference, either openly to give suitable instructions to the Minister and elders, or to admonish them privately.

Sisting of execution by Appeal or Complaint.

6. An Appeal or Complaint sists the execution of any sentence of Discipline pronounced by a Kirk-Session, as long as the Appeal or Complaint is duly prosecuted, and until it be disposed of finally, either by the Presbytery, or by the Synod, or by the General Assembly.

Procedure in needful Appeals.

7. In dealing with a reference to them of any one of the matters referred to in Part II. Section 39, the Presbytery is, strictly speaking, entitled to assume that all the parties, having been cited by the Kirk-Session *apud acta*, are bound to be present, so that the case may be proceeded with to any extent by the Presbytery itself, if they see cause. But a very frequently adopted course, even when the reference is sustained as made in due form, is to remit the matter back to the Kirk-Session, with instructions or advice. It has thus become reasonable that, if the Presbytery see cause for themselves dealing at all with the parties personally, they should issue, or cause to be issued by the Session, a fresh and special citation to the parties, so as to make them aware that their presence before the Presbytery is really required. The Presbytery have undoubtedly the discretionary power of either carrying out the case themselves to its termination, or of at once remitting it back to the Kirk-Session, with authority to proceed, or of requiring parties to appear for Presbyterial rebuke or admonition, and then remitting further procedure to the Kirk-Session. It is often thought best to leave the responsibility as much as possible with the Session.

Authority as to removal of Censures.

8. The authority of the Presbytery is requisite for the removal by absolution of any of those sentences which cannot be pronounced by the Kirk-Session, without having obtained the authority of the Presbytery at some stage of the process.

Division II.—Processes originating in the Presbytery.

Charge or *fama* against a Minister.

1. It is a special function of the Presbytery to investigate any charge or *fama* against a Minister or Probationer within their bounds. They alone have primary jurisdiction over either.

2. A Presbytery is called upon to prefer, in all cases, the honour of Christ and the purity of His Church to the temporary feelings and interests of men. Therefore, the allegation of serious offences against the light of God's Word, or against holiness of life, on the part of a Minister of the Gospel, and especially on the part of a Pastor, must not be lightly dealt with by his Presbytery.

Caution and Prudence.

3. The very gravity of this duty renders it all the more necessary for a Presbytery to exercise great caution and prudence,

before themselves originating, or encouraging others to originate, a regular process against a Minister.

Allegations not to be rashly entertained.

4. If allegations to the discredit of a Minister do not involve any imputation of immoral conduct, but of unsoundness in doctrine, or of views and practices opposed to the order, unity, and peace established by Christ in His Church, they ought not to be rashly entertained. The knowledge and understanding of those who make the allegations should be closely considered, before the adoption of any action regarding them. If alleged errors be not gross, and strike not at the vitals of religion; or if they be not pertinaciously clung to or industriously spread, with a visible design to corrupt; or if they be not spreading among the people, then, according to the old Form of Process, lenitives, admonitions, instructions, and frequent conferences are to be tried to reclaim without cutting off; the advice, if need be, of other Presbyteries, should be sought; and unless the matter be doing much hurt, so as to admit of no delay, the Synod or General Assembly may be advised with in the affair, provided the Minister concerned be made aware of the steps that are taken.

Case for Presbyterial Visitation.

5. According to the same authority, if the complaint against a Minister involve a multitude of smaller things laid together, as several acts of negligence, or other unsuitable actions, the Presbytery ought to make a Presbyterial visitation of the Congregation with which the Minister is connected. In conducting a visitation in such circumstances, they are called upon to investigate carefully the character and origin of the allegations, whether they were ever raised previously; how, if they never were, they came to be passed over; and what has occasioned their being brought forward now. If the Presbytery, at their visitation, find satisfying reasons for the matter having been broached at the particular time, they are next required to ascertain what diligence has been used in acquainting the minister with the offence given by his procedure, and how far the offence has been continued after he was made aware of the effect produced. The inquiry is also recommended, whether any of the complainers did first, in a prudent, private way, inform any of the neighbouring Ministers of their complaints, before these had swelled out into a magnitude demanding Presbyterial interference.

Case for simple rebuke of parties.

6. If, by Presbyterial visitation or otherwise, the Presbytery find, in the way of preliminary investigation or precognition, that the complaints resolve into the Minister having committed such acts of infirmity or passion, as, considering all the circumstances, may be either amended, so as to satisfy the people, and to prevent any continued hindrance to the profitableness of the ministry of the Word among them, then the course suggested by the Form of Process is to take all prudent steps for satisfying both parties, for rebuking their respective errors, and doing away with the offence.

7. It thus appears that the Free Church, by retaining the old

Form of Process as part of her law, would restrain a Presbytery from instituting or entertaining a regular process against any Minister, until all means have been exhausted for preventing the necessity of such a process being entered on.

All means for preventing process to be exhausted.

8. At the same time it ought to be recollected, that if a Minister think himself aggrieved by the raising of any question regarding his conduct, or if he object to any investigation without a regular trial being granted to him, he is entitled to demand that a Libel or regularly arranged statement of any charge or charges against him be drawn out and placed in his hands, before he will consent to hold communication with his co-Presbyters on the subject of the allegations. Circumstances might occur which would justify him in taking this ground, although it is generally more consistent with the spirit of the Gospel that he should, at the very first, speak frankly and distinctly to those who propose to deal with him.

Right to a Libel.

9. It may thus be necessary sometimes to proceed by Libel even with respect to charges which, if well founded, do not of necessity involve the infliction of any high censure.

Description of Libel.

10. It has been established by long practice that no judicial process of a serious kind can be carried out against a Minister or a Probationer, except by the use of what is called a Libel. This is a document consisting of three parts, and forming a regular syllogism. The first, or major proposition, sets forth the nature of the alleged offence, declares its contrariety to the Word of God and the laws of the Church, and indicates the kind of consequences which ought to follow from it. The second, or minor proposition, asserts the guilt of the Minister or Probationer, and specifies what are believed to be the leading facts involving guilt, and particularizing time, place, and other circumstances. This proposition may contain one or more counts of indictment. The third part connects the major and minor propositions together, and thereby deduces the conclusion that the Minister or Probationer, as guilty of the offence mentioned in the major proposition, ought to be subjected to the consequences, provided the minor proposition be made good, either by confession or by adequate evidence. It is of great importance that care be taken to frame the Libel with accuracy, so as to avoid grounds for questioning its relevancy. Rules for framing Libels, as well as Forms of Libel, may be found in 'Styles of Procedure,' by the Church Law Society, 1838, pp. 98-106, and in Appendix of this Manual. It is advisable, in every case, that the Libel, however carefully framed by the help of these Rules and Forms, should, previously to its adoption, be revised by some one experienced both in ecclesiastical processes and in the nature of indictments generally, such as the Law Agent of the Church. A Libel must be signed by the party or parties prosecuting, and a list of witnesses and documents adduced in support of the charge embodied in it must be appended to it.

Grounds for entertaining a Libel.

11. There are three distinct grounds which may warrant or require a Presbytery to entertain or frame a Libel, and without one of which it is contrary to the Form of Process for a Presbytery to entertain a charge of scandal against a Minister, so far even as to cite the Minister, or in any way begin a process. One ground is that of some person giving in a complaint involving a charge of immorality or heresy under his own hand, *with some account of its probability*, and undertaking to make out a Libel. A second ground is that of a person simply undertaking to make out a Libel containing such a charge, under the pain of being censured as a slanderer if he fail to do so. And a third ground is that of a *fama clamosa* being so great, as that the Presbytery, for their own vindication, find it necessary to begin a process without any particular accuser.

Credit due to accusers to be weighed.

(1.) Since a scandal against a Minister, once raised, cannot be easily wiped off, a Presbytery must exactly ponder by whose information and complaint it comes before them. And in judging of the *probability* that would justify them in proceeding, they are called upon to weigh well the measure of credit due to the quarter from which an allegation of scandal proceeds.

Raiser of Complaint obliged to make it out.

(2.) If the raiser of a Complaint, being a Member of the Church, press it upon them, representing that attention to it is requisite for the due exercise of discipline, while he fails to satisfy them of its truth being reasonably probable, they must require him to declare that he undertakes to make it out, under the pain of being himself censured as a slanderer. If he allow this declaration to be minuted, and put his hand to it, they are called upon to proceed.

Inquiry as to rise, etc., of *fama*.

(3.) Before beginning a process against a Minister or a Probationer, on the ground of a *fama clamosa*, involving serious scandal, or manifest heresy, such as persistent opposition to the doctrine of the Confession of Faith, the Presbytery must be careful to inquire into the rise, occasion, broachers, and grounds of such a *fama*.

Process against Professors prosecuted by College Committee.

12. It is the special function of the General Assembly's Training of the Ministry Committee to originate and prosecute before the Church Courts any process required against a Professor in a Theological Hall for heresy or immorality, the rights competent to all parties according to the laws of the Church being at the same time reserved. (See Act IX., Assembly 1861.)

Preliminary examination of witnesses.

13. In all cases which may lead to a Libel, a careful preliminary examination of proposed witnesses is requisite by the party prosecuting, in order that a charge incapable of proof may not be proceeded with.

Dealing with a view to confession.

14. If a Presbytery find that there is good ground for entertaining or framing a Libel against a Minister or Probationer, subject to their jurisdiction, they ought, in the first instance, to deal with him, so as to ascertain whether further

steps in the process may not be superseded by his confession. They ought to do what they can, in the spirit of love and faithfulness, to bring him to a confession. He may either deny the charge, or, before committing himself at all by answering the inquiries of his brethren, he may think it necessary that the imputations against him be set forth distinctly in regular form. In either case, the framing of a Libel becomes necessary.

Order of Procedure after Libel framed by Presbytery.

15. When the Presbytery find it necessary to be themselves the Libellers in a case of charge against a Minister, they are called upon to consider the question as to the relevancy of the Libel before serving it. With this view, they are instructed to summon him, in regular form, with ten days' free notice, to attend a meeting of Presbytery, at which it shall be proposed to consider the propriety of serving the Libel. A copy of the proposed Libel must accompany the summons. They are called upon, at that meeting, to consider carefully the relevancy of the Libel, and if they resolve to serve it, they must serve it as a Libel which they have already judged to be relevant. It is held that the Minister, if Minister of a sanctioned charge within the bounds, though specially summoned to attend on the occasion, is not yet a party at the bar, but is still a member of Court while the question of relevancy is discussed, and until the resolution to serve the Libel has been come to. (See Act V., Assembly 1853.) If the Minister object to that resolution, his remedy is not by Appeal, but by Dissent and Complaint.

16. The rule laid down in the preceding Section does not apply to the case of a Probationer, against whom a Libel must be served before its relevancy is judicially considered, even when the Presbytery are the Libellers.

Libel framed by other parties.

17. When a Libel against a Minister is prepared and prosecuted by any other party than the Presbytery, it must be presented to the Presbytery, and can only be served by their authority. In this case, its relevancy cannot be judicially considered, until it has been served.

No appeal, etc., to sist procedure till Libel served and found relevant.

18. No Appeal or Dissent and Complaint at any stage of Presbyterial action in a case of *charge* or *fama* which involves a Libel, or may lead to the necessity of serving a Libel against a Minister, has the effect of sisting procedure, until the Libel has both been served and found relevant. (See Act IV., Assembly 1853.)

Functions of Minister cease *ipso facto*.

19. In every case in which a Presbytery has resolved to order a Libel to be served upon a Minister of the Church, he ceases *ipso facto* to exercise the functions of his office, both ministerial and judicial, until the Libel has been finally disposed of.

Things included in relevancy of Libel.

20. The relevancy of a Libel includes two things—(1.) Whether the major proposition be true or not; that is, whether the offence or offences referred to be truly or not a subject of Church censure, inferring the indicated penalty, according to the

Word of God and the standards of the Church; and (2.) Whether the conclusion be fairly deducible or not from the premises; that is, whether the facts specified in the minor proposition really amount or not to the offence or offences charged in the major proposition.

Effect of irrelevancy.

21. If the Libel be found irrelevant, except in the case in which, after appeal, complaint, or reference, the General Assembly has corrected the irrelevancy, the whole proceedings fall to the ground. If only part of it be found irrelevant, the case may go on upon the part which has been found relevant.

Fresh dealing toward confession.

22. After a Libel against a Minister has been found relevant, the Presbytery ought to deal with him anew as to whether he be or be not prepared to confess the truth of the charge or charges. For every reasonable consideration ought to be urged in order to persuade a Christian Minister that, if an accusation against him be well-founded, it is his duty, both for his own sake and for the interests of Christ's cause, to save his brethren or other parties the trouble of adducing proof against him, either by witnesses or by documents. When the Presbytery are themselves the Libellers, this dealing may take place immediately after the Libel has been found relevant, and before it has been actually served. In any other case, it must, of course, be resorted to after the serving of the Libel, and also after it has been found relevant. It may be carried on either at a private meeting of the Presbytery, or by a Committee of their number appointed for the purpose.

Presbytery's procedure as to proof.

23. If the accused Minister or Probationer persist in his denial of the charge or charges, after the Libel has been found relevant, the Presbytery, if prepared to carry on the case without reference to the Superior Courts, must proceed to take the proof, after hearing the Libel read over again, and after hearing also any answers that may have been given in on the part of the Minister or Probationer. The same rules for the conduct of the trial apply as have been stated with reference to the action of Kirk-Sessions in cases of discipline. The whole procedure must be carefully minuted. It is expedient that it should be kept in a separate Record, lest from any cause a Superior Court should order the whole or any part of it to be deleted or destroyed. But it must be considered in the meantime as an integral part of the Presbytery's Minutes. The questions as to the competency of evidence, and other important points which may be raised in a case of Libel against a Minister, are often of such grave consequence that a more particular statement with respect to some of them is given in the Appendix.

Competency of reference to Superior Courts.

24. When the Presbytery are prosecutors, and have adequate evidence before them that a Libel adopted by them as relevant has been served upon a Minister within their bounds, it is competent for them, if they see cause, to refer the case to the Superior Courts—that is, to the Synod, if it meet before the Assembly, and, otherwise, to the Assembly—either on the ground

that it does not appear expedient, in the circumstances, for the Presbytery to act both as prosecutors and judges, or on the ground that it does not appear expedient in the circumstances for the proof to be taken, except in the presence of those who have the power of giving a final deliverance as to its effect.

25. When the Libel is prosecuted not by the Presbytery, but by another party, and when, having had adequate evidence before them that the Libel has been duly served, the Presbytery have found it relevant, it is competent for them, if they see cause, to refer the case to the Synod or Assembly, on the ground that it does not appear expedient, in the circumstances, for the proof to be taken, except in the presence of those who have the power of giving a final deliverance as to its effect.

Deposition or suspension after confession.

26. If a Minister or Probationer confess himself guilty of any scandalous offence, such as flagrant or habitual intemperance, or of violating the Seventh Commandment, it is the duty of the Presbytery *to depose a Minister instanter* from his office, or to deprive a Probationer *instanter* of his license, and to deal with him otherwise as the ordinary discipline of the Church requires, and as may be most for edification. A public confession in presence of the Congregation was originally required, though in many localities such a requirement may not be thought suitable in the existing circumstances of the Church and of society. Where an offence by a Minister has not been very flagrant or aggravated, *suspension* from office *sine die*—that is, indefinitely as to time—has sometimes been considered sufficient censure. But such a *suspension* is always accompanied by a sentence which looses the suspended Minister from his Pastoral Charge: so that, even if he be reponed to the status of a Minister, he is not restored to that Charge.

Execution of Sentences.

27. In inflicting censures upon Ministers and Probationers, a Presbytery may either be called upon to execute its own judgments, when there is no appeal or complaint against them, or when they are confirmed by the Synod or Assembly, or be instructed to execute the judgments of the Synod or Assembly.

Minister not appearing.

28. If an accused Minister, when duly cited, do not appear, and either leave the locality, or show himself otherwise contumacious, without any relevant excuse, the Presbytery are required to hold him as having confessed, and to depose and censure him *instanter* with the lesser excommunication. If, after some time, he do not return and subject himself to discipline, he may be proceeded against, so as to be censured with the greater excommunication, if the Presbytery see cause.

29. The full citation of a Minister who does not obey an ordinary citation is a public citation from the pulpit of his Church.

30. A tendered resignation of his office by a Minister cannot stop procedure by libel against him. For no resignation can be

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accepted of, unless the Presbytery be satisfied that no charge of scandal or heresy can be reasonably brought against him.

Resignation does not stop Libel.

31. It is competent for a Minister to be reponed to his status, and for a Probationer to have his license restored, upon professions of repentance which seem to be borne out by a course of consistent conduct. But great caution is requisite in entertaining

Reponing of a Minister, etc.

the question of such reponement or restoration. A Minister may be reponed, or a Probationer's license may be restored, either by the Presbytery which pronounced the sentence of deposition or deprivation, or by the Presbytery having jurisdiction over him at the time when application is made for reponement or restoration.

PART IV.—*Processes peculiar to the Provincial Synod.*

Chief action in Review.

1. The chief action of the Provincial Synod with relation to Discipline lies in the exercise of its powers as a Court of Review. The most serious questions as to the relevancy of Libels, as to the competency and effect of evidence in cases of Libel, and as to the Procedure of Presbyteries in judging of matters before Kirk-Sessions, may come up to the Synod by Appeal, Complaint, or Reference.

The Synod judges by recorded evidence.

2. In dealing with questions of Evidence thus introduced to their notice, the position of Synods is different, in one important particular, from that of Kirk-Sessions in their ordinary investigations, and from that of Presbyteries in their trial of the truth of Libels. The Synod cannot have the Witnesses personally before it, so as to judge of their statements by seeing and hearing them while they deliver their testimony orally. It must form the best judgment it can from the recorded evidence transmitted to it by the Clerks of Presbyteries, and from the pleadings of parties at its bar. When the papers in a case are very voluminous, it is sometimes found necessary that they should be all printed, to enable the Synod to judge of the case. This necessity may cause an Adjournment of the Synod for a week or two.

Correction of irregularity in Record.

3. If the examination of a Presbytery's Record by a Synod exhibit what it regards as an irregularity or neglect on the subject of discipline, it is the function of the Synod to correct such irregularity or neglect. It may do this according to the nature of each particular case, either by simply reversing a judgment, or by reversing a judgment and instructing the Presbytery how to proceed, or by calling the Presbytery's attention to a matter as requiring investigation, or as requiring more investigation than they have given to it.

Scandal or *fama clamosa* forced on attention.

4. If any circumstances of a peculiar kind have the effect of forcing upon the attention of a Synod a case of *scandal* or *fama clamosa* before it has reached the Inferior Court having primary jurisdiction over the party, it is not the duty of the Synod to take any steps toward itself originating a process. But, in such a case,

the obligation lies upon it to direct the notice of the Presbytery of the bounds within which the scandal is alleged to have occurred, or the *fama clamosa* appears to prevail, to the statement or the facts which have been communicated to itself.

Case of Special Reference.

5. In the event of a reference coming to a Synod in terms of Act IX. or Act X., Assembly 1854, it is held that the Synod may take one of three courses. It may either differ from the Presbytery as to the question of expediency, dismiss the reference, and require the Presbytery to try the case themselves; or, secondly, it may sustain the reference, and resolve itself to try the case; or, thirdly, it may sustain the reference, and refer the case on to the General Assembly.

PART V.—*Processes peculiar to the General Assembly and its Commissions.*

Chief action in Review.

1. The chief action of the General Assembly with relation to Discipline, is, like that of the Synod, in the review of cases which come from the Inferior Courts by Appeal, Complaint, or Reference.

Power of correcting Libel.

2. If a competent Appeal, or Complaint, or Reference, bring up to the Assembly a question as to the relevancy of a Libel against a Minister, and if the Assembly find the Libel irrelevant, in whole or in part, it is competent for them, if they see fit, to correct the Libel, and to appoint the case to be tried with the amended Libel. (See Act VIII., Assembly 1854.)

Assembly dependent on Recorded Evidence.

3. When a case of Libel, which has been found relevant, comes up to the Assembly after judgment upon the merits by the Presbytery, or by a Synod, or by both, the Assembly are placed in the same position as the Synod as regards the means of estimating the evidence. They are dependent entirely upon the record of that evidence transmitted by the Clerks of Synods and Presbyteries. And, according to the Standing Orders, that record, as well as all minutes and papers that affect a case, must be printed, with sufficient number of copies for the use of the Members of Assembly.

4. In so far as the rules for dealing with a case of Libel in these circumstances are peculiar to the Assembly, they may be best seen by a study of the Standing Orders.

Remission of causes to Commission.

5. It has long been held competent for the Assembly to remit any cause which they cannot themselves overtake in a suitable manner, to their ordinary Commission, at one of its stated diets. The practice in this direction had been very frequent in cases of discipline previously to the year 1843. It has not prevailed since that era in the Free Church of Scotland; but nothing has occurred to bring its competency into question. The Commission, however, cannot take up any such cause which has not been specially remitted to it by the Assembly. When it has such a cause before

it, the rules followed by the Assembly in obedience to the Standing Orders ought to be carefully observed.

Special Commission.

6. In the event of any such reference as is permitted by Acts IX. and X., Assembly 1854, having been duly brought under the consideration of the General Assembly, it is competent to the Assembly, if they see fit, to appoint a Special Commission to hear the evidence on both sides, and give a deliverance as to its effect. And it is provided that any Special Commission so appointed shall report their deliverance to the General Assembly, or to its ordinary Commission, at one of its stated diets (as the Assembly may direct), who shall pronounce such sentence, or issue such instructions to the Presbytery, as to them may seem fit. There can be no doubt, at the same time, that it is equally competent for the Assembly either to try the case themselves or to dismiss the reference, so as to require the Presbytery to carry the case to its conclusion, or to sustain the reference, and to give special instructions to the Presbytery with respect to their procedure.

Nobile Officium.

7. Because the General Assembly is the Supreme Court, beyond which there is no power of Appeal in point of form, it is competent for it to exercise what is called the *nobile officium;* that is to say, when a case is fairly before it, it may take such action regarding it as may appear most for the interests of truth and the cause of justice, provided it do not exceed the powers vested in it by the ecclesiastical constitution. At any stage of procedure brought constitutionally under its view, the Assembly may either give special instructions to a Presbytery, or appoint Assessors to assist them, or appoint a Special Commission to deal with a matter for the right conduct of which the Presbytery may be disabled by any peculiarity of circumstances. But, notwithstanding the general principle which would justify such interference by the Assembly in extraordinary emergencies, it is held that, without an extraordinary emergency, it requires special legislation to warrant any disturbance of the ordinary course of Discipline, even by the authority of the Assembly.

Review of Synod Records.

8. The Assembly, on reviewing the Records of Synods, may discover indications which may call for inquiry as to whether or not discipline has been neglected, or administered irregularly; it may perceive what it considers as proof of such neglect or irregularity. In these circumstances, it is warranted to interpose its authority, at least to the effect of correcting errors in the procedure of the inferior Courts, of ordering their objectionable Minutes to be deleted, and of instructing them as to the procedure which they ought now to follow.

Case of palpable scandal, heresy, or contumacy.

9. If any case of palpable scandal, or heresy, or contumacy be forced by circumstances upon the attention of the General Assembly before it has reached any inferior Court having jurisdiction over the party, the Assembly may either remit such a case to the inferior Court, or deal with it summarily by the direct exercise of their own authority.

10. If a Libel involving a charge or charges of scandal or heresy be found *proven* by the General Assembly, the sentence following upon such a judgment, whether deposition, suspension *sine die*, or temporary suspension, or rebuke, or admonition, or deprivation of license, may either be pronounced by the Assembly, or reserved for the action of the inferior Court in following out the Assembly's instructions.

APPENDICES

OF ACTS AND DOCUMENTS.

APPENDIX I.

HISTORICAL DOCUMENTS.

1. *Claim, Declaration, and Protest.*

Act XIX. 1842.—Claim, Declaration, and Protest, anent the Encroachments of the Court of Session.

The General Assembly of the Church of Scotland, taking into consideration the solemn circumstances in which, in the inscrutable providence of God, this Church is now placed; and that, notwithstanding the securities for the Government thereof by General Assemblies, Synods, Presbyteries, and Kirk-Sessions, and for the liberties, government, jurisdiction, discipline, rights, and privileges of the same, provided by the statutes of the realm, by the constitution of this country, as unalterably settled by the Treaty of Union, and by the oath, "inviolably to maintain and preserve" the same, required to be taken by each Sovereign at accession, as a condition precedent to the exercise of the royal authority;—which securities might well seem, and had long been thought, to place the said liberties, government, jurisdiction, discipline, rights, and privileges, of this Church, beyond the reach of danger or invasion;—these have been of late assailed by the very Court to which the Church was authorised to look for assistance and protection, to an extent that threatens their entire subversion, with all the grievous calamities to this Church and nation which would inevitably flow therefrom;—did and hereby do solemnly, and in reliance on the grace and power of the Most High, resolve and agree on the following Claim, Declaration, and Protest: That is to say:—

Whereas it is an essential doctrine of this Church, and a fundamental principle in its constitution, as set forth in the Confession of Faith thereof, in accordance with the Word and law of the most holy God, that "there is no other Head of the Church but the Lord Jesus Christ" (ch. xxv. sec. 6); and that, while "God, the supreme Lord and King of all the world, hath ordained civil magistrates to be under him over the people, for his own glory, and the public good, and to this end hath armed them with the power of the sword" (ch. xxiii. sec. 1); and while "it is the duty of people to pray for magistrates, to honour their persons, to pay them tribute and other dues, to obey their lawful commands, and to be subject to their authority for conscience' sake," "from which ecclesiastical persons are not exempted" (ch. xxiii. sec. 4); and while the magistrate hath authority, and it is his duty, in the exercise of that power

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which alone is committed to him, namely, "the power of the sword," or civil rule, as distinct from the "power of the keys," or spiritual authority, expressly denied to him, to take order for the preservation of purity, peace, and unity in the Church, yet "The Lord Jesus, as King and Head of his Church, hath therein appointed a government in the hand of Church officers distinct from the civil magistrate" (ch. xxx. sec. 1); which government is ministerial, not lordly, and to be exercised in consonance with the laws of Christ, and with the liberties of his people:

AND WHEREAS, according to the said Confession, and to the other standards of the Church, and agreeably to the Word of God, this government of the Church, thus appointed by the Lord Jesus, in the hand of Church officers, distinct from the civil magistrate or supreme power of the State, and flowing directly from the Head of the Church to the office-bearers thereof, to the exclusion of the civil magistrate, comprehends, as the objects of it, the preaching of the Word, administration of the Sacraments, correction of manners, the admission of the office-bearers of the Church to their offices, their suspension and deprivation therefrom, the infliction and removal of Church censures, and, generally, the whole "power of the keys," which, by the said Confession, is declared, in conformity with Scripture, to have been "committed" (ch. xxx. sec. 2) to Church officers, and which, as well as the preaching of the Word and the administration of the Sacraments, it is likewise thereby declared, that "the civil magistrate may not assume to himself" (ch. xxiii. sec. 3):

AND WHEREAS this jurisdiction and government, since it regards only spiritual condition, rights, and privileges, doth not interfere with the jurisdiction of secular tribunals, whose determinations as to all temporalities conferred by the State upon the Church, and as to all civil consequences attached by law to the decisions of Church Courts in matters spiritual, this Church hath ever admitted, and doth admit, to be exclusive and ultimate, as she hath ever given and inculcated implicit obedience thereto:

AND WHEREAS the above-mentioned essential doctrine and fundamental principle in the constitution of the Church, and the government and exclusive jurisdiction flowing therefrom, founded on God's Word, and set forth in the Confession of Faith and other standards of this Church, have been, by diverse and repeated Acts of Parliament, recognised, ratified, and confirmed;—inasmuch as,—

First, The said Confession itself, containing the doctrine and principles above set forth, was "ratified and established, and voted and approven as the public and avowed Confession of this Church," by the fifth Act of the second session of the first Parliament of King William and Queen Mary, entituled, "Act ratifying the Confession of Faith, and settling Presbyterian Church Government" (1690, c. 5): to which Act the said Confession is annexed, and with it incorporated in the statute law of this kingdom.

Second, By an Act passed in the first Parliament of King James VI., entituled, "Of admission of ministers: of laic patronages" (1567, c. 7), it is enacted and declared, "That the examination and admission of ministers within this realm be only in the power of the Kirk, now openly and publicly professed within the same;" and while the "presentation

of laic patronages" was thereby "reserved to the just and ancient patrons," it was provided, that, if the presentee of a patron should be refused to be admitted by the inferior ecclesiastical authorities, it should be lawful for the patron "to appeal to the General Assembly of the whole realm, by whom the cause being decided, shall take end as they decern and declare."

Third, By an Act passed in the same first Parliament, and renewed in the sixth Parliament of the said King James VI., entituled, "Anent the jurisdiction of the Kirk" (1567, c. 12. *Fol. Edit.*), the said Kirk is declared to have jurisdiction "in the preaching of the true Word of Jesus Christ, correction of manners, and administration of the holy sacraments" (1579, c. 69); and it is further declared, "that there be *no other jurisdiction ecclesiastical* acknowledged within this realm, other than that *which is and shall be within the same Kirk, or that flows therefrom, concerning the premises;*" which Act, and that last before mentioned, were ratified and approven by another Act passed in the year 1581, entituled, "Ratification of the liberty of the true Kirk of God and religion, with confirmation of the laws and Acts made to that effect of before" (1581, c. 99); which other Act, and all the separate Acts therein recited, were again revived, ratified, and confirmed by an Act of the twelfth Parliament of the said King James VI., entituled, "Ratification of the liberty of the true Kirk," etc. (1592, c. 116); which said Act (having been repealed in 1662) was revived, renewed, and confirmed by the before-mentioned statute of King William and Queen Mary (1690, c. 5).

Fourth, The said Act of the twelfth Parliament of King James VI., ratified and approved the General Assemblies, Provincial Synods, Presbyteries, and Kirk-Sessions "appointed by the Kirk" (1592, c. 116), and "the whole jurisdiction and discipline of the same Kirk;" cassed and annulled "all and whatsoever acts, laws, and statutes, made at any time before the day and date thereof, against the liberty of the true Kirk, jurisdiction and discipline thereof, as the same is used and exercised within this realm;" appointed presentations to benefices to be directed to Presbyteries, "with full power to give collation thereupon, and to put order to all matters and causes ecclesiastical within their bounds, according to the discipline of the Kirk, providing the foresaid Presbyteries be bound and astricted to receive and admit whatsoever qualified minister, presented by his Majesty or laic patrons" (the effect of which proviso and of the reservation in the Act of the first Parliament of King James VI., above mentioned (1567, c. 7), is hereinafter more fully adverted to); and further declared that the jurisdiction of the Sovereign and his Courts, as set forth in a previous Act (1584, c. 129), to extend over all persons his subjects, and "in all matters," should "noways be prejudicial nor derogate anything to the privilege that *God has given* to the spiritual office-bearers of the Kirk, concerning *heads of religion, matters of heresy, excommunication, collation, or deprivation of ministers, or any such like essential censures*, grounded and having warrant of the Word of God;" by which enactment, declaration, and

acknowledgment, the State recognised and established as a fundamental principle of the constitution of the kingdom, that the jurisdiction of the Church in these matters was "given by God" to the office-bearers thereof, and was exclusive, and free from coercion by any tribunals holding power or authority from the State or supreme civil magistrate.

Fifth, The Parliament holden by King Charles II. (1662, c. 1), immediately on his restoration to the throne, while it repealed the above recited Act of the twelfth Parliament of King James, and other relative Acts (1592, c. 116), at the same time acknowledged the supreme and exclusive nature of the jurisdiction thereby recognised to be in the Church, describing the said Acts, as Acts "by which the *sole and only* power and jurisdiction within this Church *doth stand in the Church*, and in the general, provincial, and presbyterial assemblies and kirk-sessions," and as Acts, "which may be interpreted to have given any Church power, jurisdiction, or government to the office-bearers of the Church, their respective meetings, other than that which acknowledgeth a dependence upon, and subordination to, the sovereign power of the King, as supreme."

Sixth, The aforesaid Act of King William and Queen Mary (1690, c. 5),—on the narrative that their Majesties and the estates of Parliament conceived "it to be their bounden duty, after the great deliverance that God hath lately wrought for this Church and kingdom, *in the first place*, to settle and secure therein the true Protestant religion, according to the truth of God's Word, as it hath of a long time been professed within this land; as also, the government of Christ's Church within this nation, agreeable to the Word of God, and most conducive to true piety and godliness, and the establishing of peace and tranquillity within this realm,"—besides ratifying and establishing as aforesaid the Confession of Faith, did also "establish, ratify, and confirm the Presbyterian Church government and discipline; that is to say, *the government of the Church by Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies*, ratified and established by the 116 Act of James VI., Parliament 12, anno 1592, entituled, 'Ratification of the liberty of the true Kirk,' etc. (1592, c. 116), and thereafter received by the general consent of this nation, *to be the only government of Christ's Church within this kingdom;*" and revived and confirmed the said Act of King James VI.

AND WHEREAS, not only was the exclusive and ultimate jurisdiction of the Church Courts, in the government of the Church, and especially in the particular matters, spiritual and ecclesiastical, above mentioned, recognised, ratified and confirmed—thus necessarily implying the denial of power on the part of any secular tribunal, holding its authority from the Sovereign, to review the sentence of the Church Courts in regard to such matters, or coerce them in the exercise of such jurisdiction;—but all such power, and all claim on the part of the Sovereign to be considered supreme governor over the subjects of this kingdom of Scotland in causes *ecclesiastical and spiritual*, as he is in causes *civil and temporal*, was after a long continued struggle, finally and *expressly repudiated and cast out of the constitution* of

Scotland, *as inconsistent with the Presbyterian Church government* established at the Revolution, and thereafter unalterably secured by the Treaty of Union with England; by the constitution of which latter kingdom, differing in this respect from that of Scotland, the Sovereign is recognised to be supreme governor, "*as well* in all *spiritual and ecclesiastical* things and causes as *temporal*:" Thus:—

First, The General Assembly having, in the year 1582, proceeded to inflict the censures of the Church upon Robert Montgomery, minister of Stirling, for seeking to force himself, under a presentation from the King, into the archbishopric of Glasgow, contrary to an act of the General Assembly discharging the office of Prelatic bishop in the Church, and for appealing to the secular tribunals against the infliction of Church censures by the the Church Courts, and seeking to have these suspended and interdicted—and having deposed and excommunicated him, notwithstanding of an interdict pronounced by the Privy Council of Scotland, the then supreme secular court of the kingdom—and having at the same time declared it to be part of the subsisting discipline of the Church, that any ministers thereof who "should seek any way by the civil power to exempt and withdraw themselves from the jurisdiction of the Kirk, or procure, obtain, or use any letters or charges, etc., to impair, hurt, or stay the said jurisdiction, discipline, etc., or to make any appellation from the General Assembly to stop the discipline or order of the ecclesiastical policy or jurisdiction granted by God's Word to the office-bearers within the said Kirk," were liable to the highest censures of the Church; although their sentence of excommunication was declared by one of the Acts of Parliament of the year 1584, commonly called the "Black Acts," to be void, yet ultimately the King and Privy Council abandoned their interference. Montgomery submitted to the Church Courts, and the statute of the twelfth Parliament of King James VI., already mentioned (1592, c. 116), cassed and annulled "all and whatsoever acts, laws, and statutes made at any time before the day and date thereof, against the liberty of the true Kirk, jurisdiction and discipline thereof, *as the same is used and exercised within this realm;*" since which enactment, no similar interference with the discipline and censures of the Church was ever attempted till the year 1841.

Second, It having been declared by another of the "Black Acts" aforesaid (1584, c. 129), entituled, "An Act confirming the King's Majesty's royal power over all the estates and subjects within this realm," that "his Highness, his heirs and successors, by themselves and their councils, are, and in time to come shall be, judges competent to all persons his Highness' subjects, of whatsoever estate, degree, function, or condition that ever they be of, spiritual or temporal, *in all matters* wherein they or any of them, shall be apprehended, summoned, or charged to answer to such things as shall be inquired of them by our sovereign lord and his council," it was, by the said before-mentioned Act of the twelfth Parliament of King James VI. (1592, c. 116), declared that the said Act last above mentioned "shall noways be pre-

judicial, nor derogate any thing to the privilege that God has given to the spiritual office-bearers of the Kirk, concerning heads of religion, matters of heresy, excommunication, collation, or deprivation of ministers, or any such like essential censures, specially grounded and having warrant of the Word of God."

Third, It having been enacted, on the establishment of Prelacy in 1612 (1612, c. 1), that every minister, at his admission, should swear obedience to the Sovereign as "the only lawful supreme governor of this realm, as well in matters spiritual and ecclesiastical as in things temporal," the enactment to this effect was repealed on the restoration of Presbyterian Church government (1640, c. 7).

Fourth, A like acknowledgment, that the Sovereign was "the only supreme governor of this kingdom over all persons *and in all causes*" (1661, c. 11), having been, on the second establishment of Prelacy consequent on the restoration of King Charles II., required as part of the ordinary oath of allegiance, and having been also inserted into the "Test Oath" (1681, c. 6), so tyrannically attempted to be forced on the subjects of this realm during the reigns of Charles II. and James II., and the same doctrine of the King's supremacy in all causes, spiritual and ecclesiastical, as well as temporal and civil, having farther been separately and specially declared by the first Act of the second Parliament of the said King Charles II. (1669, c. 1), entituled, "Act asserting his Majesty's supremacy over all persons and in all causes ecclesiastical," whereby it was "enacted, asserted, and declared, that his Majesty hath the supreme authority and supremacy over all persons, and in all causes ecclesiastical, within this kingdom" (Estates, 1689, c. 18),—the Estates of this kingdom, at the era of the Revolution, did set forth, as the second article of the "Grievances" of which they demanded redress under their "Claim of Right," "That the first Act of Parliament 1669 is inconsistent with the establishment of Church government now desired, and ought to be abrogated."

Fifth, In compliance with this claim, an Act was immediately thereafter passed (1690, c. 1), of which the tenor follows:—"Our Sovereign Lord and Lady the King and Queen's Majesties, taking into their consideration that, by the second article of the Grievances presented to their Majesties by the estates of this kingdom, it is declared, that the first Act of the second Parliament of King Charles the Second, entituled, 'Act asserting his Majesty's supremacy over all persons and in all causes ecclesiastical,' is inconsistent with the establishment of the Church government now desired, and ought to be abrogated: Therefore their Majesties, with advice and consent of the estates of Parliament, do hereby abrogate, rescind, and annul the foresaid Act, and declares the same, in the whole heads, articles, and clauses thereof, to be of no force or effect in all time coming." In accordance also therewith, the oath of allegiance above mentioned, requiring an acknowledgment of the King's sovereignty "in *all* causes" (1689, c. 2), was done away, and that substituted which is now in use, simply requiring a promise to be "faithful, and bear true allegiance" to the sovereign; and all preceding laws and

Acts of Parliament were rescinded, "in so far as they impose any other oaths of allegiance and supremacy, declarations and tests, excepting the oath *de fideli*." By the which enactments any claim on the part of the Sovereigns of Scotland to be supreme rulers in spiritual and ecclesiastical, as well as in temporal and civil causes, or to possess any power, by themselves or their judges holding commission from them, to exercise jurisdiction in matters or causes spiritual and ecclesiastical, was repudiated and excluded from the constitution, as inconsistent with the Presbyterian Church government then established, and secured under the statutes then and subsequently passed, "to continue, without any alteration, to the people of this land, in all succeeding generations" (1706, c. 6).

AND WHEREAS, diverse civil rights and privileges were, by various statutes of the Parliament of Scotland, prior to the Union with England, secured to this Church, and certain civil consequences attached to the sentences of the Courts thereof, which were farther directed to be aided and made effectual by all magistrates, judges, and officers of the law; and in particular:—

It was by an Act of the twelfth Parliament of King James VI. (1592, c. 117), enacted, "That all and whatsoever sentences of deprivation, either pronounced already, or that happens to be pronounced hereafter by the Presbytery, Synodal or General Assemblies, against any parson or vicar within their jurisdiction, provided since his Highness' coronation, is, and shall be repute in all judgments, a just cause to seclude the person before provided, and then deprived, from all profits, commodities, rents, and duties of the said parsonage and vicarage, or benefice of cure; and that either by way of action, exception, or reply; and that the said sentence of deprivation shall be a sufficient cause to make the said benefice to vaike thereby:"

As also, by the fifth Act of the first Parliament of King William and Queen Mary (1690, c. 5), it was enacted, "that whatsoever minister, being convened before the said general meeting, and representatives of the Presbyterian ministers or elders, or the visitors to be appointed by them, shall either prove contumacious for not appearing, or be found guilty, and shall be therefor censured, whether by suspension or deposition, they shall, *ipso facto*, be suspended from or deprived of their stipends and benefices:"

As also, by an Act passed in the fourth session of the first Parliament of King William and Queen Mary (1693, c. 22), entituled an "Act for settling the peace and quiet of the Church," it was provided, that no minister should be admitted, unless he owned the Presbyterian Church government, as settled by the last recited Act, "to be the only government of this Church;" "and that he will submit thereto, and concur therewith, and never endeavour, directly or indirectly, the prejudice or subversion thereof;" and it was statute or ordained, "that the lords of their Majesties' Privy Council, and all other magistrates, judges, and officers of justice, give all due assistance for making the sentences and

censures of the Church, and judicatories thereof, to be obeyed, or otherwise effectual as accords:"

As also, by an Act passed in the fifth session of the foresaid Parliament (1695, c. 22), entituled an "Act against intruding into churches without a legal call and admission thereto," on the narrative, "that ministers and preachers, their intruding themselves into vacant churches, possessing of manses and benefices, and exercising any part of the ministerial function in parishes, without a legal call and admission to the said churches, is an high contempt of the law, and of a dangerous consequence, tending to perpetual schism;" such intrusion, without an orderly call from the heritors and elders—the right of presentation by patrons being at this time abolished—and "legal admission from the Presbytery," was prohibited under certain penalties: and the Lords of the Privy Council were recommended to remove all who had so intruded, and "to take some effectual course for stopping and hindering those ministers who are, or shall be hereafter deposed by the judicatories of the present Established Church, from preaching or exercising any act of their ministerial function, which" (the said statute declares) "they cannot do after they are deposed, without a high contempt of the authority of the Church, and of the laws of the kingdom establishing the same."

AND WHEREAS, at the Union between the two kingdoms, the Parliament of Scotland, being determined that the "true Protestant religion," as then professed, "with the worship, discipline, and government of this Church, should be effectually and unalterably secured," did, in their Act appointing commissioners to treat with commissioners from the Parliament of England (1705, c. 4), as to an union of the kingdoms, provide "That the said commissioners shall *not* treat of or concerning any alteration of the worship, discipline, and government of the Church of this kingdom, as now by law established;" and did, by another Act, commonly called the Act of Security (1706, c. 6), and entituled, "Act for securing the Protestant religion and Presbyterian Church government," "establish and confirm the said true Protestant religion, and the worship, discipline, and government of this Church, to continue without any alteration to the people of this land in all succeeding generations;" and did "for ever confirm the fifth Act of the first Parliament of King William and Queen Mary" (1690, c. 5), entituled, "Act ratifying the Confession of Faith, and settling Presbyterian Church government, *and the whole other Acts of Parliament relating thereto;*" and did "expressly provide and declare, That the foresaid true Protestant religion, contained in the above-mentioned Confession of Faith, with the form and purity of worship presently in use within this Church, and its Presbyterian Church government and discipline,—that is to say, the government of the Church by Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies, all established by the foresaid Acts of Parliament, pursuant to the Claim of Right, shall remain and continue unalterable; and that the said Presbyterian government shall be the only government of the Church within the kingdom of Scotland:" And farther, "for the greater security of the same," did, *inter alia*, enact, "That, after the decease of her present Majesty, the sovereign succeeding to her in the royal

government of the kingdom of Great Britain, shall in all time coming, at his or her accession to the crown, swear and subscribe, That they shall inviolably maintain and preserve the foresaid settlement of the true Protestant religion, with the government, worship, discipline, rights and privileges of this Church as above established by the laws of this kingdom, in prosecution of the Claim of Right;" which said Act of Security, "with the establishment therein contained," it was specially thereby enacted, "should be held and observed in all time coming as a fundamental and essential condition of any treaty or union to be concluded betwixt the two kingdoms, *without any alteration thereof, or derogation thereto, in any sort, for ever:*" It being farther thereby provided, that "the said Act and settlement therein contained shall be insert and repeated in any Act of Parliament that shall pass for agreeing and concluding the foresaid treaty of union betwixt the two kingdoms; and that the same shall be therein expressly declared to be a fundamental and essential condition of the said treaty of union in all time coming." In terms of which enactments, this Act of Security was inserted in the Treaty of Union between the two kingdoms, as a fundamental condition thereof, and was also inserted in the Act (1706, c. 7) of the Parliament of Scotland ratifying and approving of the said Treaty, and likewise in the corresponding Act of the Parliament of England, entituled, "An Act (5 Anne, c. 8) for a Union of the two kingdoms of England and Scotland:"

AND WHEREAS, at the date of the said Treaty of Union, the right of patrons to present to churches stood abolished by statute, after the following manner,—viz., By the Act of King William and Queen Mary (1690, c. 5), herein before mentioned, the Act of James VI. (1592, c. 116), also herein before mentioned, then standing totally repealed, was only revived, subject to the express exception of "that part of it relating to patronages," which consequently remained repealed and unrestored, and "which," the Act 1690, c. 5, farther bore, "is hereafter to be taken into consideration." The part of the said Act thus left repealed and unrevived, was the provision, that Presbyteries "be bound and astricted to receive whatsoever qualified minister presented by his Majesty or laic patrons,"—a provision which, while it subsisted, was held to leave the Church free to proceed in the collation of ministers, "according to the discipline of the Kirk;" and non-compliance with which implied only a forfeiture of the fruits of the particular benefice, which it did by virtue of the immediately succeeding statute 1592, c. 117, whereby it was enacted, that, "in case the Presbytery *refuses* to admit any *qualified* minister presented to them by the patron, it shall be lawful to the patron to retain the whole fruits of the benefice in his own hands." This subject having accordingly been thereafter taken into consideration in the same session of Parliament, was definitely settled by an Act (1690, c. 23), entituled, "Act concerning Patronages," whereby the right of presentation by patrons was "annulled and made void," and a right was vested in the heritors and elders of the respective parishes "to *name* and *propose* the person to the whole congregation, to be approven or disapproven by them," the disapprovers giving in their reasons "to the effect the affair may be cognosced upon by the Presbytery of the bounds, at whose judgment, and by whose determination" (as is declared by the said Act), "*the calling and entry* of a particular minister is to be ordered and concluded:"

AND WHEREAS the said Act last mentioned formed part of the

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settlement of the Presbyterian Church government effected at the Revolution, and was one of the "Acts relating thereto," and to the statute 1690, c. 5, specially confirmed and secured by the Act of Security and Treaty of Union; yet, notwithstanding thereof, and of the said Treaty, the Parliament of Great Britain, by an Act passed in the 10th of Queen Anne (10 Anne, c. 12), repealed the said Act, "in so far as relates to the presentation of ministers by heritors and others therein mentioned," and restored to patrons the right of presentation, and enacted that Presbyteries should be "obliged to receive and admit in the same manner, such qualified person or persons, minister or ministers, as shall be presented by the respective patrons, as the persons or ministers presented before the making of this Act ought to have been admitted:"

AND WHEREAS, while this Church protested against the passing of the above-mentioned Act of Queen Anne, as "contrary to the constitution of the Church, so well secured by the late Treaty of Union, and solemnly ratified by Acts of Parliament in both kingdoms," and for more than seventy years thereafter uninterruptedly sought for its repeal, she at the same time maintained, and practically exercised, without question or challenge from any quarter, the jurisdiction of her Courts to determine ultimately and exclusively, under what circumstances they would admit candidates into the office of the holy ministry, or constitute the pastoral relationship between minister and people, and generally, "to order and conclude the entry of particular ministers:"

AND WHEREAS, in particular, this Church required, as necessary to the admission of a minister to the charge of souls, that he should have received a call from the people over whom he was to be appointed, and did not authorise or permit any one so to be admitted till such call had been sustained by the Church Courts, and did, before and subsequent to the passing of the said Act of Queen Anne, declare it to be a fundamental principle of the Church, as set forth in her authorised standards, and particularly in the Second Book of Discipline (ch. iii. sec. 5), repeated by Act of Assembly in 1638, that no pastor be intruded upon any congregation contrary to the will of the people:

AND WHEREAS, in especial, this fundamental principle was, by the 14th Act of the General Assembly 1736 (c. 14), re-declared, and directed to be attended to in the settlement of vacant parishes, but having been, after some time, disregarded in the administration of the Church, it was once more re-declared by the General Assembly 1834 (c. 9), who established certain specific provisions and regulations for carrying it into effect in time to come:

AND WHEREAS, by a judgment pronounced by the House of Lords, in 1839,[1] it was, for the first time, declared to be illegal to refuse to take on trial, and to reject the presentee of a patron (although a layman, and merely a candidate for admission to the office of the ministry), in consideration of this fundamental principle of the Church, and in respect of the dissent of the congregation; to the authority of which judgment, so far as disposing of civil interests, this Church implicitly bowed, by at once abandoning all claim to the *jus devolutum*,—to the benefice, for any pastor to be settled by her,—and to all other civil right or privilege which might otherwise have been competent to the Church or her Courts; and anxiously desirous,

[1] Auchterarder Case, 1839.

at the same time, of avoiding collision with the Civil Courts, she so far suspended the operation of the above-mentioned Act of Assembly, as to direct all cases, in which dissents should be lodged by a majority of the congregation, to be reported to the General Assembly, in the hope that a way might be opened up to her for reconciling with the civil rights declared by the House of Lords, adherence to the above-mentioned fundamental principle, which she could not violate or abandon, by admitting to the holy office of the ministry a party not having, in her conscientious judgment, a legitimate call thereto, or by intruding a pastor on a reclaiming congregation contrary to their will; and farther, addressed herself to the Government and the Legislature for such an alteration of the law (as for the first time now interpreted), touching the temporalities belonging to the Church (which alone she held the decision of the House of Lords to be capable of affecting or regulating), as might prevent a separation between the cure of souls and the benefice thereto attached:

AND WHEREAS, although during the century which elapsed after the passing of the said Act of Queen Anne, Presbyteries repeatedly rejected the presentees of patrons on grounds undoubtedly *ultra vires* of the Presbyteries, as having reference to the title of the patron or the validity of competing presentations, and which were held by the Court of Session to be contrary to law, and admitted others to the pastoral office in the parishes presented to, who had no presentation or legal title to the benefice, the said Court, even in such cases, never attempted or pretended to direct or coerce the Church Courts, in the exercise of their functions in regard to the collation of ministers, or other matters acknowledged by the State to have been conferred on the Church, not by the State, but by God himself. On the contrary, they limited these decrees to the regulation and disposal of the temporalities which were derived from the State, and which, as the proper subjects of "actions civil," were within the province assigned to the Court of Session, by the Constitution refusing to interfere with the peculiar functions and exclusive jurisdiction of the Courts of the Church. Thus,—

In the case of Auchtermuchty,[1] where the Presbytery had wrongfully admitted another than the patron's presentee, the Court found "That *the right to a stipend* is a civil right; and *therefore* that the Court have power to cognosce and determine upon the legality of the admission of ministers *in hunc effectum*, whether the *person admitted* shall have right to the *stipend* or not; and simply decided, that the patron was entitled to retain the stipend in his own hands.

So also, the same course was followed in the cases of Culross, Lanark, and Forbes;[2] in reference to one of which (that of Lanark), the Government of the country, on behalf of the Crown, in which the patronage was vested, recognised the retention of stipend by the patron, as the only competent remedy for a wrongful refusal to admit his presentee; the Secretary of State having, in a letter to the Lord Advocate of Scotland (January 17, 1752), signified the pleasure of his Majesty, "directing and ordering his lordship to do every

[1] Moncrieff *v.* Maxton, Feb. 15, 1735.

[2] Cochrane *v.* Stoddart, June 26, 1751. Dick *v.* Carmichael, March 2, 1753. Forbes *v.* M'William, February 1762.

thing necessary and competent by law, for asserting and taking benefit in the present case of the said right and privilege of patrons by the law of Scotland to retain the fruits of the benefice in their own hands till their presentee be admitted."

So farther, in the before-mentioned case of Culross,[1] the Court refused, "as incompetent," a bill of advocation presented to them by the patron, for the purpose of staying the admission by the Presbytery of another than his presentee.

So likewise, in the case of Dunse,[2] the Court would not interfere in regard to a conclusion to prohibit the Presbytery "to moderate in a call at large, or settle any other man," because "that was interfering with the power of ordination, or internal policy of the Church, with which the Lords thought they had nothing to do."

And so, in the same manner, in the case of Unst,[3] where the party concluded to have the Presbytery ordained to proceed to the presentee's settlement as well as to have the validity of the presentation and the right to the stipend declared, the Court limited their decree to the civil matters of the presentation and stipend.

AND WHEREAS, pending the efforts of the Church to accomplish the desired alteration of the law, the Court of Session,—a tribunal instituted by special Act of Parliament for the specific and limited purpose of "doing and administration of justice in all *civil actions*" (1537, c. 36), with judges appointed simply "to sit and decide upon all *actions civil*" (1532, c. 1),—not confining themselves to the determination of "civil actions,"—to the withholding of civil consequences from sentences of the Church Courts, which, in their judgment, were not warranted by the statutes recognising the jurisdiction of these Courts,—to the enforcing of the provision of the Act 1592, c. 117, for retention of the fruits of the benefice in case of wrongful refusal to admit a presentee, or the giving of other civil redress for any civil injury held by them to have been wrongfully sustained in consequence thereof,—have, in numerous and repeated instances, stepped beyond the province allotted to them by the Constitution, and within which alone their decisions can be held to declare the law, or to have the force of law, deciding not only "actions civil," but "causes spiritual and ecclesiastical,"—and that, too, even where these had no connection with the exercise of the right of patronage,—and have invaded the jurisdiction, and encroached upon the spiritual privileges of the Courts of this Church, in violation of the constitution of the country—in defiance of the statutes above mentioned, and in contempt of the laws of this kingdom: as for instance—

By interdicting Presbyteries of the Church from admitting to a pastoral charge,[4] when about to be done irrespective of the civil benefice attached thereto, or even where there was no benefice—no right of patronage—no stipend—no manse or glebe, and no place of worship, or any patrimonial right, connected therewith.[5]

[1] Cochrane, November 19, 1748.
[2] Hay *v.* Presbytery of Dunse, February 26, 1749.
[3] Lord Dundas *v.* Presbytery of Shetland, May 15, 1795.
[4] 1st Lethendy Case. [5] Stewarton Case.

By issuing a decree,[1] requiring and ordaining a Church Court to take on trial and admit to the office of the holy ministry, in a particular charge, a probationer or unordained candidate for the ministry, and to intrude him also on the congregation, contrary to the will of the people;—both in this, and in the cases first mentioned, invading the Church's exclusive jurisdiction in the admission of ministers, the preaching of the Word, and administration of Sacraments—recognised by statute to have been "given by God" directly to the Church, and to be beyond the limits of the secular jurisdiction.

By prohibiting the communicants[2] of the Church from intimating their dissent from a call proposed to be given to a candidate for the ministry to become their pastor.

By granting interdict against the establishment of additional ministers to meet the wants of an increasing population,[3] as uninterruptedly practised from the Reformation to this day: against constituting a new kirk-session in a parish, to exercise discipline; and against innovating on its existing state, "as regards pastoral superintendence, its kirk-session, and jurisdiction and discipline thereto belonging."

By interdicting the preaching of the gospel, and administration of ordinances,[4] throughout a whole district, by any minister of the Church under authority of the Church Courts; thus assuming to themselves the regulation of the "preaching of the Word" and "administration of the Sacraments," and at the same time invading the privilege, common to all the subjects of the realm, of having freedom to worship God according to their consciences, and under the guidance of the ministers of the communion to which they belong.

By holding the members of inferior Church judicatories liable in damages[5] for refusing to break their ordination vows and oaths (sworn by them, in compliance with the requirements of the statutes of the realm, and, in particular, of the Act of Security embodied in the Treaty of Union), by disobeying and setting at defiance the sentences, in matters spiritual and ecclesiastical, of their superior Church judicatories, to which, by the constitution of the Church and country, they are, in such matters, subordinate and subject, and which, by their said vows and oaths, they stand pledged to obey.

By interdicting the execution of the sentence of a Church judicatory, prohibiting a minister from preaching or administering ordinances within a particular parish,[6] pending the discussion of a cause in the Church Courts as to the validity of his settlement therein.

By interdicting the General Assembly and inferior Church judicatories from inflicting Church censures; as in one case, where interdict was granted against the pronouncing of sentence of deposition upon a minister found guilty of theft, by a judgment acquiesced in by himself;[7] in another, where a Presbytery was interdicted from proceeding in the trial of a minister accused of fraud and swindling;[8] and in a third,

[1] Marnoch Case.
[2] Daviot Case.
[3] Stewarton Case.
[4] Strathbogie Cases.
[5] 2nd Auchterarder Case.
[6] Culsalmond Case.
[7] Cambusnethan Case.
[8] Stranraer Case.

where a Presbytery was interdicted from proceeding with a libel against a licentiate for drunkenness, obscenity, and profane swearing.[1]

By suspending Church censures,[2] inflicted by the Church judicatories in the exercise of discipline (which, by special statute, all "judges and officers of justice" are ordered "to give due assistance" for making "to be obeyed, or otherwise effectual"), and so reponing ministers suspended from their office, to the power of preaching and administering ordinances; thus assuming to themselves the "power of the keys."

By interdicting the execution of a sentence of deposition from the office of the holy ministry, pronounced by the General Assembly of the Church;[3] thereby also usurping the "power of the keys," and supporting deposed ministers in the exercise of ministerial functions; which is declared by special statute to be a "high contempt of the authority of the Church, and of the laws of the kingdom establishing the same."

By assuming to judge of the right of individuals elected members of the General Assembly to sit therein,[4] and interdicting them from taking their seats; thus interfering with the constitution of the Supreme Court of the Church, and violating her freedom in the holding of General Assemblies, secured to her by statute.

By, in the greater number of instances above referred to, requiring the inferior judicatories of the Church to disobey the sentences, in matters spiritual and ecclesiastical, of the superior judicatories, to which, by the constitution in Church and State, they are subordinate and subject, and which, in compliance with the provisions of the statutes of the realm, their members have solemnly sworn to obey;—thus subverting "the government of the Church by Kirk-sessions, Presbyteries, Provincial Synods, and General Assemblies," settled by statute and the Treaty of Union, as "the only government of the Church within the kingdom of Scotland."

By all which acts, the said Court of Session, apparently not adverting to the oath taken by the Sovereign, from whom they hold their commissions, have exercised powers not conferred upon them by the Constitution, but by it excluded from the province of any secular tribunal,—have invaded the jurisdiction of the Courts of the Church,—have subverted its government,—have illegally attempted to coerce Church Courts in the exercise of their purely spiritual functions,—have usurped the "power of the keys,"—have wrongfully acclaimed, as the subjects of their civil jurisdiction, to be regulated by their decrees, ordination of laymen to the office of the holy ministry, admission to the cure of souls, Church censures, the preaching of the Word, and the administration of the Sacraments,—and have employed the means intrusted to them for enforcing submission to their lawful authority, in compelling submission to that which they have usurped,—in opposition to the doctrines of God's Word set forth in the Confession of Faith, as ratified by statute,—in violation of the Constitution,—in breach of the Treaty of Union, and in disregard of divers express enactments of the Legislature:

[1] 4th Lethendy Case.
[2] 1st and 2d Strathbogie Cases.
[3] 3d Strathbogie Case.
[4] 5th Strathbogie Case.

AND WHEREAS farther encroachments are threatened on the government and discipline of the Church as by law established,[1] in actions now depending before the said Court, in which it is sought to have sentences of deposition from the office of the holy ministry reduced and set aside,[2] and minorities of inferior judicatories authorized to take on trial and admit to the office of the holy ministry, in disregard of, and in opposition to, the authority of the judicatories of which they are members, and of the superior judicatories to which they are subordinate and subject:

AND WHEREAS the government and discipline of Christ's Church cannot be carried on according to his laws and the constitution of his Church, subject to the exercise, by any secular tribunal, of such powers as have been assumed by the said Court of Session:

AND WHEREAS this Church, highly valuing, as she has ever done, her connection, on the terms contained in the statutes herein before recited, with the State, and her possession of the temporal benefits thereby secured to her for the advantage of the people, must, nevertheless, even at the risk and hazard of the loss of that connection and of these public benefits—deeply as she would deplore and deprecate such a result for herself and the nation—persevere in maintaining her liberties as a Church of Christ, and in carrying on the government thereof on her own constitutional principles, and must refuse to intrude ministers on her congregations, to obey the unlawful coercion attempted to be enforced against her in the exercise of her spiritual functions and jurisdiction, or to consent that her people be deprived of their rightful liberties:

THEREFORE, the General Assembly, while, as above set forth, they fully recognise the absolute jurisdiction of the Civil Courts in relation to all matters whatsoever of a civil nature, and especially in relation to all the temporalities conferred by the State upon the Church, and the civil consequences attached by law to the decisions, in matters spiritual, of the Church Courts,—DO, in name and on behalf of this Church, and of the nation and people of Scotland, and under the sanction of the several statutes, and the Treaty of Union herein before recited, CLAIM, as of RIGHT, That she shall freely possess and enjoy her liberties, government, discipline, rights, and privileges, according to law, especially for the defence of the spiritual liberties of her people, and that she shall be protected therein from the foresaid unconstitutional and illegal encroachments of the said Court of Session, and her people secured in their Christian and constitutional rights and liberties.

AND they DECLARE, that they cannot, in accordance with the Word of God, the authorized and ratified standards of this Church, and the dictates of their consciences, intrude ministers on reclaiming congregations, or carry on the government of Christ's Church, subject to the coercion attempted by the Court of Session as above set forth; and, that, at the risk and hazard of suffering the loss of the secular benefits conferred by the State, and the public advantages of an Establishment, they must, as by God's grace they will, refuse so to do: for, highly as they estimate these, they cannot put them in competition with the inalienable liberties of a Church of Christ, which, alike by their duty and allegiance to their Head and King, and by their ordination vows, they are bound to maintain, "notwithstanding of whatsoever trouble or persecution may arise."

[1] 4th Strathbogie Case. [2] 3d Auchterarder Case. 3d Lethendy Case.

APPENDIX I. 1. *Historical Documents.* Claim of Right.

AND they PROTEST, that all and whatsoever Acts of the Parliament of Great Britain, passed without the consent of this Church and nation, in alteration of or derogation to the aforesaid government, discipline, right, and privileges of this Church (which were not allowed to be treated of by the Commissioners for settling the terms of the union between the two kingdoms, but were secured by antecedent stipulation, provided to be inserted, and inserted in the Treaty of Union, as an unalterable and fundamental condition thereof, and so reserved from the cognizance and power of the federal Legislature created by the said Treaty), as also, all and whatsoever sentences of Courts in contravention of the same government, discipline, right, and privileges, are, and shall be, in themselves void and null, and of no legal force or effect; and that, while they will accord full submission to all such acts and sentences, in so far—though in so far only,—as these may regard civil rights and privileges, whatever may be their opinion of the justice or legality of the same, their said submission shall not be deemed an acquiescence therein, but that it shall be free to the members of this Church, or their successors, at any time hereafter, when there shall be a prospect of obtaining justice, to claim the restitution of all such civil rights and privileges, and temporal benefits and endowments, as for the present they may be compelled to yield up, in order to preserve to their office-bearers the free exercise of their spiritual government and discipline, and to their people the liberties, of which respectively it has been attempted, so contrary to law and justice, to deprive them.

AND, FINALLY, the General Assembly call the Christian people of this kingdom, and all the Churches of the Reformation throughout the world, who hold the great doctrine of the sole Headship of the Lord Jesus over his Church, to witness, that it is for their adherence to that doctrine, as set forth in their Confession of Faith, and ratified by the laws of this kingdom, and for the maintenance by them of the jurisdiction of the office-bearers, and the freedom and privileges of the members of the Church from that doctrine flowing, that this Church is subjected to hardship, and that the rights so sacredly pledged and secured to her are put in peril; and they especially invite all the office-bearers and members of this Church, who are willing to suffer for their allegiance to their adorable King and Head, to stand by the Church, and by each other, in defence of the doctrine aforesaid, and of the liberties and privileges, whether of office-bearers or people, which rest upon it; and to unite in supplication to Almighty God, that he would be pleased to turn the hearts of the rulers of this kingdom, to keep unbroken the faith pledged to this Church, in former days, by statutes and solemn treaty, and the obligations, come under to God himself, to preserve and maintain the government and discipline of this Church in accordance with his Word; or otherwise, that he would give strength to this Church—office-bearers and people—to endure resignedly the loss of the temporal benefits of an Establishment, and the personal sufferings and sacrifices to which they may be called, and would also inspire them with zeal and energy to promote the advancement of his Son's kingdom, in whatever condition it may be his will to place them; and that, in his own good time, he will restore to them these benefits, the fruits of the struggles and sufferings of their fathers in times past in the same cause; and, thereafter, give them grace to employ them more effectually than hitherto they have done for the manifestation of his glory.

2. *Protest.*

ACT I. 1843.—PROTEST BY THOSE COMMISSIONERS TO THE GENERAL ASSEMBLY APPOINTED TO MEET ON 18TH MAY 1843, BY WHOM THIS ASSEMBLY WAS CONSTITUTED.

The Commissioners to the General Assembly of the Church of Scotland, appointed to have been holden this day, having met in St Andrew's Church, the Ministers and Elders, Commissioners thereto, whose names are appended to the Protest then and there made, and hereinafter inserted, having withdrawn from that place, and having convened in a large Hall at Canonmills, in presence of a great concourse of Ministers, Elders, and People, and having duly constituted themselves in the name of the Head of the Church, and appointed the Rev. Dr. Chalmers to be their Moderator, the Protest above-mentioned was produced and read, and thereafter ordered to be recorded as follows:—

WE, the undersigned Ministers and Elders, chosen as Commissioners to the General Assembly of the Church of Scotland, indicted to meet this day, but precluded from holding the said Assembly by reason of the circumstances hereinafter set forth, in consequence of which a Free Assembly of the Church of Scotland, in accordance with the laws and constitution of the said Church, cannot at this time be holden,—

CONSIDERING that the Legislature, by their rejection of the Claim of Right adopted by the last General Assembly of the said Church, and their refusal to give redress and protection against the jurisdiction assumed, and the coercion of late repeatedly attempted to be exercised over the Courts of the Church in matters spiritual by the Civil Courts, have recognised and fixed the conditions of the Church Establishment, as henceforward to subsist in Scotland, to be such as these have been pronounced, and declared by the said Civil Courts in their several recent decisions, in regard to matters spiritual and ecclesiastical, whereby it has been held, *inter alia*,—

1*st*, That the Courts of the Church by law established, and members thereof, are liable to be coerced by the Civil Courts in the exercise of their spiritual functions; and in particular, in the admission to the office of the holy ministry, and the constitution of the pastoral relation, and that they are subject to be compelled to intrude ministers on reclaiming congregations in opposition to the fundamental principles of the Church, and their views of the Word of God, and to the liberties of Christ's people.

2*d*, That the said Civil Courts have power to interfere with and interdict the preaching of the gospel and administration of ordinances as authorized and enjoined by the Church Courts of the Establishment.

3*d*, That the said Civil Courts have power to suspend spiritual censures pronounced by the Church Courts of the Establishment against ministers and probationers of the Church, and to interdict their execution as to spiritual effects, functions, and privileges.

4*th*, That the said Civil Courts have power to reduce and set aside the

sentences of the Church Courts of the Establishment, deposing ministers from the office of the holy ministry, and depriving probationers of their license to preach the gospel, with reference to the spiritual status, functions, and privileges, of such ministers and probationers,—restoring them to the spiritual office and status of which the Church Courts had deprived them.

5th, That the said Civil Courts have power to determine on the right to sit as members of the supreme and other judicatories of the Church by law established, and to issue interdicts against sitting and voting therein, irrespective of the judgment and determination of the said judicatories.

6th, That the said Civil Courts have power to supersede the majority of a Church Court of the Establishment, in regard to the exercise of its spiritual functions as a Church Court, and to authorize the minority to exercise the said functions, in opposition to the Court itself, and to the superior judicatories of the Establishment.

7th, That the said Civil Courts have power to stay processes of discipline pending before Courts of the Church by law established, and to interdict such Courts from proceeding therein.

8th, That no pastor of a congregation can be admitted into the Church Courts of the Establishment, and allowed to rule, as well as to teach, agreeably to the institution of the office by the Head of the Church, nor to sit in any of the judicatories of the Church, inferior or supreme,—and that no additional provision can be made for the exercise of spiritual discipline among the members of the Church, though not affecting any patrimonial interests, and no alteration introduced in the state of pastoral superintendence and spiritual discipline in any parish, without the sanction of a Civil Court.

All which jurisdiction and power on the part of the said Civil Courts severally above specified, whatever proceeding may have given occasion to its exercise, is, in our opinion, in itself, inconsistent with Christian liberty, and with the authority which the Head of the Church hath conferred on the Church alone.

AND FURTHER CONSIDERING, that a General Assembly, composed, in accordance with the laws and fundamental principles of the Church, in part of commissioners themselves admitted without the sanction of the Civil Court, or chosen by Presbyteries composed in part of members not having that sanction, cannot be constituted as an Assembly of the Establishment without disregarding the law and the legal conditions of the same as now fixed and declared;

AND FURTHER CONSIDERING, that such commissioners as aforesaid would, as members of an Assembly of the Establishment, be liable to be interdicted from exercising their functions, and to be subjected to civil coercion at the instance of any individual having interest who might apply to the Civil Courts for that purpose;

AND CONSIDERING FURTHER, that civil coercion has already been in divers instances applied for and used, whereby certain commissioners returned to the Assembly this day appointed to have been holden, have been interdicted from claiming their seats, and from sitting and voting therein; and certain Presbyteries have been, by

interdicts directed against their members, prevented from freely choosing commissioners to the said Assembly, whereby the freedom of such Assembly, and the liberty of election thereto, has been forcibly obstructed and taken away;

AND FURTHER CONSIDERING, that, in these circumstances, a free Assembly of the Church of Scotland, by law established, cannot at this time be holden, and that an Assembly, in accordance with the fundamental principles of the Church, cannot be constituted in connection with the State without violating the conditions which must now, since the rejection by the Legislature of the Church's claim of right, be held to be the conditions of the Establishment;

AND CONSIDERING that, while heretofore, as members of Church judicatories ratified by law and recognised by the constitution of the kingdom, we held ourselves entitled and bound to exercise and maintain the jurisdiction vested in these judicatories with the sanction of the constitution, nothwithstanding the decrees as to matters spiritual and ecclesiastical of the Civil Courts, because we could not see that the State had required submission thereto as a condition of the Establishment, but, on the contrary, were satisfied that the State, by the acts of the Parliament of Scotland, for ever and unalterably secured to this nation by the Treaty of Union, had repudiated any power in the Civil Courts to pronounce such decrees, we are now constrained to acknowledge it to be the mind and will of the State, as recently declared, that such submission should and does form a condition of the Establishment, and of the possession of the benefits thereof; and that as we cannot, without committing what we believe to be sin—in opposition to God's law—in disregard of the honour and authority of Christ's crown, and in violation of our own solemn vows, comply with this condition, we cannot in conscience continue connected with, and retain the benefits of, an Establishment to which such condition is attached.

WE, THEREFORE, the Ministers and Elders foresaid, on this, the first occasion since the rejection by the Legislature of the Church's claim of right, when the commissioners chosen from throughout the bounds of the Church to the General Assembly appointed to have been this day holden, are convened together, DO PROTEST, that the conditions foresaid, while we deem them contrary to and subversive of the settlement of church government effected at the Revolution, and solemnly guaranteed by the Act of Security and Treaty of Union, are also at variance with God's word, in opposition to the doctrines and fundamental principles of the Church of Scotland, inconsistent with the freedom essential to the right constitution of a Church of Christ, and incompatible with the government which He, as the Head of His Church, hath therein appointed distinct from the civil magistrate.

And we further PROTEST, that any Assembly constituted in submission to the conditions now declared to be law, and under the civil coercion which has been brought to bear on the election of commissioners to the Assembly this day appointed to have been holden, and on the commissioners chosen thereto, is not and shall not be deemed a lawful and free Assembly of the Church of Scotland, according to the original and fundamental principles thereof; and that the Claim, Declaration, and Protest, of the General Assembly which convened at Edinburgh in May 1842, as the act of a free and lawful Assembly of the said Church, shall be holden as setting forth the true constitution of the said Church, and that the said Claim,

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along with the laws of the Church now subsisting, shall in nowise be affected by whatsoever acts and proceedings of any Assembly constituted under the conditions now declared to be the law, and in submission to the coercion now imposed on the Establishment.

And, finally, while firmly asserting the right and duty of the civil magistrate to maintain and support an establishment of religion in accordance with God's word, and reserving to ourselves and our successors to strive by all lawful means, as opportunity shall in God's good providence be offered, to secure the performance of this duty agreeably to the Scriptures, and in implement of the statutes of the kingdom of Scotland, and the obligations of the Treaty of Union as understood by us and our ancestors, but acknowledging that we do not hold ourselves at liberty to retain the benefits of the Establishment, while we cannot comply with the conditions now to be deemed thereto attached—we PROTEST, that in the circumstances in which we are placed, it is and shall be lawful for us, and such other commissioners chosen to the Assembly appointed to have been this day holden, as may concur with us, to withdraw to a separate place of meeting, for the purpose of taking steps for ourselves and all who adhere to us—maintaining with us the Confession of Faith and standards of the Church of Scotland, as heretofore understood—for separating in an orderly way from the Establishment; and thereupon adopting such measures as may be competent to us, in humble dependence on God's grace and the aid of the Holy Spirit, for the advancement of His glory, the extension of the gospel of our Lord and Saviour, and the administration of the affairs of Christ's house, according to His holy word; and we do now, for the purpose foresaid, withdraw accordingly, humbly and solemnly acknowledging the hand of the Lord in the things which have come upon us, because of our manifold sins, and the sins of this Church and nation; but, at the same time, with an assured conviction, that we are not responsible for any consequences that may follow from this our enforced separation from an Establishment which we loved and prized—through interference with conscience, the dishonour done to Christ's crown and the rejection of His sole and supreme authority as King in His Church.

APPENDIX II.

ELECTION AND ADMISSION OF OFFICE-BEARERS.

1. General.

Act XIV. 1846.—Declaratory Act anent Election of Office-bearers.

The General Assembly declare, that it is not necessary or expedient at present to frame a minute and detailed directory for regulating the election of Office-bearers; that the Church should be satisfied with a recognition of general principles, and the adoption of one or two general rules; and that reliance should be placed, in the meantime, upon the spirit which seems generally to actuate both the judicatories and congregations of the Church, for avoiding the necessity of judicially determining some points on which a diversity of opinion might exist, and yet securing general harmony in the appointment of Office-bearers, and the peace and welfare of congregations.

The Assembly declare that the principle has been already recognised, and should be fully and fairly acted on, that "it appertaineth to the people, and to every several congregation," that is, to the members of the congregation in full communion with the Church, "to elect their minister;" and they further declare, that it is a principle of Presbyterian Church Government, that the whole proceedings of a congregation connected with the appointment of a minister should be conducted under Presbyterial superintendence, and that, while this principle requires that the actual election and call of a minister by the congregation should take place in the presence and under the moderation of the Presbytery, or a Committee of that body, it likewise implies that no public meeting of a congregation should be held to take any steps connected with the choice of a minister, unless some member of Presbytery be present to preside at it.

It is also declared, that Presbyteries, on whom devolves the duty of supplying the pulpit during the vacancy, ought to use their endeavour to secure to vacant congregations an opportunity of hearing such probationers as they may wish to hear; and the provision with regard to this in the Directory of 1649 should, as far as possible, be acted on. That provision is, "When any place of the ministry in a congregation is vacant, it is incumbent to the Presbytery, with all diligence, to send one of their number to preach to that congregation, who in his doctrine is to represent to them the necessity of providing the place with a qualified pastor, and to exhort them to fervent prayer and supplication

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to the Lord that He would send them a pastor according to His own heart: As also he is to signify that the Presbytery, out of their care of that flock, will send unto them preachers whom they may hear; and if they have a desire to hear any other, they will endeavour to procure them an hearing of that person or persons, upon the suit of the elders to the Presbytery."

The General Assembly are of opinion, that the present circumstances and necessities of the Church greatly confirm the propriety of what is in itself a good rule, and well fitted to promote the peace and edification of congregations, viz., that, in general, a Presbytery should not proceed to moderate in a call until they have ground to believe that the congregation are, on the whole, very much of one mind as to the person whom they mean to choose. There is satisfactory evidence that this was the plan usually followed by the Church under the Revolution Settlement, as well as in earlier times. But this system can be expected to succeed, and to work well, only if the Church Courts act fairly upon the great principle, that "it appertaineth to the people, and to every several congregation to elect their ministers," and, in the execution of the functions which undoubtedly belong to them, such as supplying the vacant pulpit, and moderating in a call, show a reasonable regard to the inclinations and convenience of congregations: and if congregations, on the other hand, are influenced in all the steps they take in regard to the choice of a minister, by a deep sense of the solemnity and importance of the duty they are called upon to discharge, by the habitual recollection that it is from Christ alone they can get duly qualified and useful pastors, and by a sincere determination that all things shall be "done decently and in order," and that the utmost care shall be taken to avoid caballing, party spirit, and division. If congregations would proceed, in all the steps connected with the choice of a minister, under the influence of these convictions and resolutions, the Assembly confidently hope that elections would, in general, be harmonious, if not unanimous; that there would be no occasion for a formal vote, and that not only would useful and acceptable pastors be chosen, but that the members of congregations, instead of being alienated from each other by divisions and contentions, and all the evils of unholy partisanship, would, by their meetings together for prayer and consultation in regard to the choice of a pastor, be more closely united in the bonds of Christian affection.

With the foregoing statement of principles and general rules, the Assembly would express their earnest hope that these may be acted on by all parties, in such a spirit as not only to render a directory unnecessary, but to promote the general peace of the Church, and the best interests of congregations.

It is finally declared, that the election of Elders and Deacons should be conducted upon the same general principles as the election of Ministers, subject to such modifications as the nature of the case, and the practice and circumstances of the congregation, may suggest.

The General Assembly appoint this Act to be read from the pulpit, on every occasion of the intimation of a vacancy in the pastoral charge.

is this done?

ACT V. CLASS II, 1932.

The General Assembly enact and ordain that at Ordinations and Inductions the presiding Minister shall, prior to putting the appointed questions to the Ordinand make the following intimation, namely: "It is my duty to explain to you, and also to the Congregation here present, with reference to that part of the question which will be put to you as to 'Purity of Worship as presently practised in this Church' that, in 1910, the General Assembly reaffirmed the legislation of the Church as to uniformity in public worship going back to the year 1707; and that, in accordance with that legislation, it is the present practice of the Free Church to avoid the use in public worship of uninspired materials of praise as also of instrumental music."

Questions and Formula for Ministers and other Office-bearers.

ACT XII. 1846.—ACT ANENT QUESTIONS AND FORMULA.

Questions and Formula. Act XII. 1846.

Whereas it has become necessary, in consequence of the late change in the outward condition of the Church, to amend the Questions and Formula to be used at the licensing of Probationers, and the ordination of Deacons, Elders, and Ministers respectively, the General Assembly, with consent of a majority of Presbyteries, enact and ordain, that the following shall be the questions so to be used: And, considering that the Formula, to this Act subjoined, embodies the substance of the answers to the said questions, the Assembly appoint the same to be subscribed by all Probationers of the Church before receiving license to preach the gospel, and by all Office-bearers at the time of their admission: And the General Assembly, in passing this Act, think it right to declare, that, while the Church firmly maintains the same scriptural principles as to the duties of nations and their rulers in reference to true religion and the Church of Christ, for which she has hitherto contended, she disclaims intolerant or persecuting principles, and does not regard her Confession of Faith, or any portion thereof, when fairly interpreted, as favouring intolerance or persecution, or consider that her office-bearers, by subscribing it, profess any principles inconsistent with liberty of conscience and the right of private judgment.

I.—ELDERS, AND DEACONS.

Questions to be put before Ordination.

Office-bearers.

1. Do you believe the Scriptures of the Old and New Testaments to be the Word of God, and the only rule of faith and manners?

2. Do you sincerely own and declare the Confession of Faith, approven by former General Assemblies of this Church, to be the confession of your faith; and do you own the doctrine therein contained to be the true doctrine, which you will constantly adhere to?

3. Do you own and acknowledge the Presbyterian Church Government of this Church, by Kirk Sessions, Presbyteries, Provincial Synods, and General Assemblies, to be the only government of this Church; and do you engage to submit thereto, concur therewith, and not to endeavour, directly or indirectly, the prejudice or subversion thereof?

4. Do you believe that the Lord Jesus Christ, as King and Head of the Church, has therein appointed a government in the hands

APPENDIX II. 1.

Office-bearers.

of Church-officers, distinct from, and not subordinate in its own province to, civil government, and that the Civil Magistrate does not possess jurisdiction or authoritative control over the regulation of the affairs of Christ's Church; and do you approve of the general principles embodied in the Claim, Declaration, and Protest, adopted by the General Assembly of the Church of Scotland in 1842, and in the Protest of Ministers and Elders, Commissioners from Presbyteries to the General Assembly, read in presence of the Royal Commissioner on 18th May 1843, as declaring the views which are sanctioned by the Word of God, and the standards of this Church, with respect to the spirituality and freedom of the Church of Christ, and her subjection to Him as her only Head and to His Word as her only standard?

5. Do you promise to observe uniformity of worship and of the administration of all public ordinances within this Church, as the same are at present performed and allowed?

6. Do you accept the office of an Elder [Deacon] of this Congregation, and promise, through grace, faithfully, diligently, and cheerfully, to discharge all the duties thereof?

II.—Probationers.

Questions to be put to Probationers before they are Licensed to preach the Gospel.

1. Do you believe the Scriptures of the Old and New Testaments to be the Word of God, and the only rule of faith and manners?

2. Do you sincerely own and believe the whole doctrine of the Confession of Faith, approven by the General Assemblies of this Church, to be the truths of God, contained in the Scriptures of the Old and New Testaments; and do you own the whole doctrine therein contained as the confession of your faith?

3. Do you sincerely own the purity of worship presently authorized and practised in this Church, and also own the Presbyterian government and discipline; and are you persuaded that the said doctrine, worship, and discipline, and Church government, are founded upon the Holy Scriptures, and agreeable thereto?

4. Do you believe that the Lord Jesus Christ, as King and Head of the Church, has therein appointed a government in the hands of Church-officers, distinct from, and not subordinate in its own province to, civil government, and that the Civil Magistrate does not possess jurisdiction or authoritative control over the regulation of the affairs of Christ's Church; and do you approve of the general principles embodied in the Claim, Declaration, and Protest, adopted by the General Assembly of the Church of Scotland in 1842, and in the Protest of Ministers and Elders, Commissioners from Presbyteries to the General Assembly, read in presence of the Royal Commissioner on 18th May 1843, as declaring the views which are sanctioned by the Word of God, and the standards of this Church, with respect to the spirituality and freedom of the Church of Christ, and her subjection to Him as her only Head, and to His Word as her only standard?

5. Do you promise that, through the grace of God, you will firmly and constantly adhere to, and in your station, to the utmost of your power, assert, maintain, and defend the said doctrine, worship, and discipline, and the government of this Church by Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies?

6. Do you promise that in your practice you will conform yourself to the said worship, and submit yourself to the said discipline and government of this Church, and not endeavour, directly or indirectly, the prejudice or subversion of the same?

7. Do you promise that you shall follow no divisive courses from the doctrine, worship, discipline, and government of this Church?

8. Do you renounce all doctrines, tenets, or opinions whatsoever, contrary to, or inconsistent with, the said doctrine, worship, discipline, and government of this Church?

9. Do you promise that you shall subject yourself to the several judicatories of this Church? (Act II. 1874.)

III.—Probationers after being called by a Congregation.

Questions to be put to Probationers before Ordination (and also to a Minister already ordained, at his admission to a Pastoral Charge).

1. Do you believe the Scriptures of the Old and New Testaments to be the Word of God, and the only rule of faith and manners?

2. Do you sincerly own and believe the whole doctrine contained in the Confession of Faith, approven by former General Assemblies of this Church, to be founded upon the Word of God; and do you acknowledge the same as the confession of your faith; and will you firmly and constantly adhere thereto, and to the utmost of your power assert, maintain, and defend the same, and the purity of worship as presently practised in this Church?

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3. Do you disown all Popish, Arian, Socinian, Arminian, Erastian, and other doctrines, tenets, and opinions whatsoever, contrary to, and inconsistent with, the foresaid Confession of Faith?

4. Are you persuaded that the Presbyterian government and discipline of this Church are founded upon the Word of God, and agreeable thereto; and do you promise to submit to the said government and discipline, and to concur with the same, and not to endeavour, directly or indirectly, the prejudice or subversion thereof, but to the utmost of your power, in your station, to maintain, support, and defend the said discipline and Presbyterian government by Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies?

5. Do you believe that the Lord Jesus Christ, as King and Head of the Church, has therein appointed a government in the hands of Church-officers, distinct from, and not subordinate in its own province to, civil government, and that the Civil Magistrate does not possess jurisdiction or authoritative control over the regulation of the affairs of Christ's Church; and do you approve of the general principles embodied in the Claim, Declaration, and Protest, adopted by the General Assembly of the Church of Scotland in 1842, and in the Protest of Ministers and Elders, Commissioners from Presbyteries to the General Assembly, read in presence of the Royal Commissioner on 18th May 1843, as declaring the views which are sanctioned by the Word of God, and the standards of this Church, with respect to the spirituality and freedom of the Church of Christ, and her subjection to Him as her only Head and to His Word as her only standard?

6. Do you promise to submit yourself willingly and humbly, in the spirit of meekness, unto the admonitions of the brethren of this Presbytery, and to be subject to them, and all other Presbyteries and

APPENDIX II. I.

Office-bearers.

superior judicatories of this Church, where God in His providence shall cast your lot; and that, according to your power, you shall maintain the unity and peace of this Church against error and schism, notwithstanding of whatsoever trouble or persecution may arise, and that you shall follow no divisive courses from the doctrine, worship, discipline, and government of this Church?

7. Are not zeal for the honour of God, love to Jesus Christ, and desire of saving souls, your great motives and chief inducements to enter into the function of the holy ministry, and not worldly designs and interests?

8. Have you used any undue methods, either by yourself or others, in procuring this call?

9. Do you engage, in the strength and grace of Jesus Christ, our Lord and Master, to rule well your own family, to live a holy and circumspect life, and faithfully, diligently, and cheerfully to discharge all the parts of the ministerial work, to the edification of the body of Christ?

10. Do you accept of and close with the call to be pastor of this congregation, and promise, through grace, to perform all the duties of a faithful minister of the gospel among this people?

IV.—Formula.

(*To be subscribed by Probationers before receiving license, and by all Office-bearers at the time of their admission.*)

I,————————————, do hereby declare, that I do sincerely own and believe the whole doctrine contained in the Confession of Faith, approven by former General Assemblies of this Church to be the truths of God; and I do own the same as the confession of my faith; as likewise I do own the purity of worship presently authorized and practised in the Free Church of Scotland, and also the Presbyterian government and discipline thereof; which doctrine, worship, and Church government, I am persuaded, are founded on the Word of God, and agreeable thereto: I also approve of the general principles respecting the jurisdiction of the Church, and her subjection to Christ as her only Head, which are contained in the Claim of Right and in the Protest referred to in the questions already put to me; and I promise that, through the grace of God, I shall firmly and constantly adhere to the same, and to the utmost of my power shall, in my station, assert, maintain, and defend the said doctrine, worship, discipline, and government of this Church, by Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies, together with the liberty and exclusive jurisdiction thereof; and that I shall, in my practice, conform myself to the said worship, and submit to the said discipline, government, and exclusive jurisdiction, and not endeavour, directly or indirectly, the prejudice or subversion of the same; and I promise that I shall follow no divisive course from the doctrine, worship, discipline, government, and exclusive jurisdiction of this Church, renouncing all doctrines, tenets, and opinions whatsoever, contrary to, or inconsistent with, the said doctrine, worship, discipline, government, or jurisdiction of the same.

2. Elders and Deacons.

Act X. 1864.—Declaratory Act anent Election of Elders and Deacons.

APPENDIX II. 2.

Elders and Deacons.

The General Assembly hereby declare, that the Act XIV., Assembly 1846, is now the law of the Church on the subject of the election of Elders and Deacons, and supersedes all previous legislation that is inconsistent with its declarations and provisions.

Act X. 1842.—Act anent the Election of Elders.[1]

Election of Elders.

1. That when a kirk-session shall have resolved upon an addition to the number of elders in the same, the minister shall publicly intimate from the pulpit, after divine service on the Lord's Day, that an appointment of additional elders has been resolved upon, and shall also intimate the number which is to be added; and he shall certify the whole male communicants of the congregation, that on the third Lord's Day thereafter, they shall give in lists of such members of the congregation, being communicants and of full age, as they would choose for the office of eldership, the number of names in each list being required to be as near as may be one-half more than the number of elders proposed, as, for instance, six when four elders are to be appointed; the session being at liberty, if they see fit, to suggest the names of such persons as they may deem meet for the office, for the consideration of the communicants; and the minister shall repeat the intimation on the two following Lord's Days, giving such exhortation as he shall deem necessary.

2. That on the Lord's Day fixed for giving in the lists aforesaid, the said male communicants shall respectively give to the elder or elders of the congregation appointed to receive them their said lists, which shall be signed by the parties lodging them, and shall have been sealed up by them before being given in.

3. That if the number of elders proposed to be appointed be not an even number, that to be contained in the list shall be equal to it and one-half of the next immediate larger number, as, for instance, if the elders proposed to be appointed shall be five, the names to be given in shall be eight in each list.

4. That on the following Monday, the session shall meet in the Church with open doors, so that all members of the congregation who choose to attend may be present, and shall then and there open the sealed lists, and the names in each list shall be read aloud and recorded, with the number of votes given for each, and those having most votes, to the number required to be contained in the lists, shall be taken as the parties chosen, from among whom the elders are to be appointed.

5. That the session shall thereupon select, from among the parties chosen as aforesaid, the number resolved to be added to the session; being, however, always entitled, according to the laws of the Church, to judge of the qualifications and fitness for the office of the parties so chosen, and to reject such as they shall judge to be unqualified; and being also entitled, if they shall see cause, in the particular circumstances of any special case, to appoint to be elders the whole of the parties so chosen.

6. That when the parties so chosen and appointed shall have declared their willingness to accept the office of elder, their edict shall be served, and the other steps followed out towards their ordination, agreeably to the forms now in use, and according to the laws of the Church.

7. That in parishes which, by the intervention of lochs, ridges of hills, or the like, are separated into totally distinct districts; or when, from other circumstances, a division is considered necessary and proper, the session may, with consent and authority of the Presbytery, divide the parish into districts,

[1] As to this Act see Act X. 1864, above.

and require a certain number of elders to be appointed for each district; and the choosing of the elders of each district shall be by the male communicants residing in each district respectively, in the same manner as is herein before provided as to parishes.

Qualification and Age.

The General Assembly do earnestly beseech, exhort, and require Elders and Deacons to be faithful in the discharge of their respective offices, tender and circumspect in their walk, and punctual in their attending upon ordinances, and strict in their observance of the Lord's Day, and in regularly keeping up the worship of God in their families; and the General Assembly appoints the Judicatories of the Church to take good heed, that none be admitted to, or continued in those offices, but such as are found qualified, and do behave themselves as above required. Act IX. 1772.

Hereafter no person shall be set apart to the office of an Elder, unless he hath attained the age of twenty-one years complete . . . and unless he is a Communicant. Act X. 1816.

Elders and Kirk-Sessions at Preaching Stations.

ACT XIII. 1863.—DECLARATORY ACT ANENT PREACHING STATIONS, KIRK-SESSIONS THEREIN, AND POSITION OF ELDERS IN SUCH KIRK-SESSIONS.

The General Assembly hereby declare that,—

1. Preaching Stations are established under the authority of the Presbyteries of the bounds, and it remains with the same Presbyteries to arrange in regard to the appointment of Elders, and the establishment of Kirk-Sessions for local discipline and management in such stations, it being understood that a minister of the Presbytery shall act as the Moderator of every such Kirk-Session. Preaching Stations, Kirk-Sessions therein, and Position of Elders in such Kirk-Sessions.

2. Such Kirk-Sessions cannot send representatives to Presbyteries until the Stations with which they are connected are erected into fully sanctioned charges, by the authority of the General Assembly.

3. Wherever the Presbytery deem it expedient, the Elders of such Stations may still be connected with regularly established Kirk-Sessions. They have the full status of Elders, and are eligible to sit in the General Assembly as representatives of Presbyteries; but in respect that such Stations have not yet a settled ministry, wherever such Elders are not connected with Kirk-Sessions established in fully sanctioned congregations, their certificates of being *bona fide* acting Elders must be given by the authority of the Presbytery of the bounds, in such manner as to the Presbytery may seem most expedient.

Elders and Deacons ceasing to hold their Offices.

MINUTE OF ASSEMBLY, 29th MAY 1806.

The Assembly proceeded to consider the overture anent non-residing Elders. After reasoning, agreed without a vote to dismiss the overture as unnecessary, in respect that when a change of residence renders it impossible for an Elder to discharge the duties of a member of the Kirk-Session of that parish in which he formerly resided, it is competent for the Kirk-Session, and is in many parts of Scotland the usual practice, to find that if he does not, within the space of twelve Elders ceasing to hold office.

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months, return to reside, he can no longer continue one of their number, and to intimate to him by letter that they have come to this resolution.

MINUTE OF ASSEMBLY, 27th MAY 1850.

The General Assembly . . . . . declare that the appellants having withdrawn from the session of Free St George's congregation, Paisley, for more than a year, have ceased to be, and no longer are, members of the Session or Deacons' Court of that congregation.

3. Ministers.

ACT IV. 1859.—ACT ANENT THE ELECTION AND CALLING OF MINISTERS. (As amended, 1888.)

3. *Ministers.*

Election and Calling of Ministers.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain—

1. That when a vacancy has taken place in any Congregation, the Presbytery of the bounds shall, at its first meeting thereafter, appoint one of the ministers to preach in said Congregation, and to intimate the vacancy, and shall also appoint a Minister to be interim Moderator of the Kirk-Session of the vacant Congregation, and to preside at all congregational meetings that may be held during the vacancy. [See Act I. 1897.]

2. That on intimating the vacancy, unless special grounds exist for delaying to fill it up, the minister shall call a meeting of the Congregation on an early day.

3. That a form of exhortation previously prepared by the General Assembly shall be read at this meeting, setting forth the duties and responsibilities in the election of a minister pertaining to all the parties concerned, namely, to the Congregation, to the Presbytery, and the person or persons put in nomination.

4. That unless the Congregation are prepared at this meeting to elect a minister, they shall nominate certain of their number, who, along with the office-bearers, shall be a Committee, for looking out for a suitable person or persons to be heard by the congregation, or a suitable person to be recommended to them as their pastor.

* * * * * *

6. That when the candidates have been heard, once or oftener, as may be arranged, a congregational meeting shall be held on an early day for the purpose of choosing one to be their pastor; and if it shall appear that the congregation are not prepared at this stage to elect any of them, the Committee, or a new Committee to be then named, consisting, as before, of the office-bearers, and such members of the congregation as may be named for the purpose, shall prepare a list of additional candidates, when the same steps as before shall be taken.

7. That, when an election has taken place, the Presbytery shall proceed therein according to the laws of the Church, but when the circumstances are such that the Presbytery do not feel warranted to proceed immediately to moderate in a Call, they shall hold a meeting with the congregation, and shall not proceed to moderate in a Call till they have exhausted all means for producing harmony, and, should these means prove unsuccessful, they shall refer the matter to the Superior Church Courts for advice.

8. That when a division exists in the congregation, the Presbytery shall not sustain a Call unless it be subscribed by a majority of the whole members on the Communicants' Roll.

Act II. 1888.

9. That before any steps are taken in an election of a Minister, the Kirk-Session shall have a roll of Communicants made up and attested; that the roll of Communicants so made up and attested, previously to the first congregational meeting at which a minister may be elected, shall, previously to any subsequent meeting for the election of a minister, be purged of all those who in the meantime have died, or have been disjoined from the Congregation by Certificate, and the names shall be added to the Roll of those who in the meantime have been admitted as Communicants in the Congregation; the roll thus made up to be duly attested by the Kirk-Session.

Address to Vacant Congregations.

The Assembly of 1895 approved of the following amended Address, and instructed it to be distributed in Vacant Congregations:—

Address to vacant Congregations.

Dear Friends,—As a Congregation of the Free Church of Scotland you are entrusted with the responsibility of choosing a pastor to be over you in the Lord. It is a duty that each one owes to his Congregation and his Church, to take his proper part in this matter; it is a duty to himself to get in this way a directly personal interest in the pastor of his choice and in his ministrations. Having the best interests of all our Congregations at heart, we desire to address to you a few words in connection with this important matter, that may assist in giving your thoughts a right direction in regard to it, and may contribute, under the Divine blessing, to a happy and harmonious settlement.

We have reason to thank God for the measure of peace and good feeling which has characterised our congregational elections and settlements in time past. But there have not been wanting indications, from time to time, of a spirit of division rising up in Congregations, leading in some cases to actual separations. Where the real root of these evils is to be found it may be difficult in each particular case to determine. But there are weighty considerations, which, if attended to, might have the effect of inducing the Members of our Church always to bear and forbear with one another, and to be willing to accept the combined result of congregational opinion, rather than to insist on the attainment of their own particular desires.

We would ask you, therefore, in going forward to the election of a minister, to bear in mind:—

1. That it is a teacher and guide in spiritual things for yourselves and your families you are now called upon to choose. Such a man must stand in a direct personal relation with every one connected with the Congregation. He ought to be the friend and counsellor of each one, young or old. He ought, therefore, as far as possible, to be the willing choice of every one, acceptable to each and welcomed by all. The Free Church represents a revolt against the intrusion of unwelcome ministers by outside parties. Shall we not belie our origin if either we are to have ministers, unwelcome to an important minority, imposed on them by mere force of numbers; or if a minority thwarts the desires of a majority for any but the weightiest reasons?

2. Your election of a minister is the act of a Christian Congregation, a body of people associated together for the furtherance of the religion of Christ in the locality in which they reside. It is not the

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Ministers.

act simply of the community at large, or of any artificial section of it, but of a distinctively religious body. It must be conducted therefore in a spirit worthy of the religion you profess, worthy of Christ in whose name you are associated, and in such a way as to foster rather than to injure Christian feeling, and to promote religious unity and brotherly love.

With these considerations in view, we ask you :—

1. To make the election of a minister a matter of earnest and repeated prayer, not only that you may be guided to the choice of a man who shall come among you as a true messenger of Christ to your souls, but that the election may be conducted in a spirit of brotherly kindness and forbearance, as befits professing followers of Christ.

2. To strive after that love that seeketh not its own—an unselfish spirit, willing that the preferences and judgments, and even the prejudices of others, should have the fullest and kindliest consideration, and resolved that, whatever happens, you will not press your own opinion to the extent of breaking up the outward, or even the inward unity of the Congregation to which you belong.

If all are thoroughly in earnest in these matters, we confidently hope that, by the blessing of God, such a relation will be formed between pastor and people as shall make them real helpers the one of the other, and shall kindle such a spirit of unity and love in all our Congregations, that men shall know that we are true disciples of the Lord Jesus.

From Act IV. 1882.—Anent Procedure at Calling and Settlement of Ministers.

Seven days' *inducíæ.*

The General Assembly, with consent of a majority of Presbyteries, enact and ordain, That instead of ten days' *inducíæ*, as in times past, Presbyteries shall be allowed to meet for any purpose connected with the calling and settlement of ministers, after seven clear days have passed from the Sabbath on which intimation of such a meeting is made to a congregation.

Act X. 1846.—Anent the Moderating in Calls.

Moderating in Calls.

The General Assembly did and hereby do appoint, that no Presbytery shall moderate in a Call to a Probationer or Minister who is not qualified to accept it according to the laws of the Church.

Act VII. 1868.—Declaratory Act anent Moderating in Calls.

The General Assembly hereby find and declare that Presbyteries shall always moderate in a Call at large, except in cases of application for the moderation of a Call in which clear intimation is given of there being a thoroughly harmonious desire for the calling of a particular person named ; in which cases Presbyteries may, if they see cause, appoint the moderation of a Call to that person only.

Act III. 1879.—Declaratory Act anent Voting by Mandate.

Whereas doubts have arisen regarding the law and practice of this Church as to voting in the Election of Ministers and the signing of

Calls, the General Assembly declare and enact that, at any meeting of a Congregation for the election of a Minister, no vote shall be allowed or recorded, unless the vote is given *by a Member of the Congregation who is personally present;* and that, when a Call at large is moderated in, it shall only be subscribed by those who personally adhibit their names; but that when a call is moderated in to an individual whose name is in the edict announcing the moderation, the Call may be subscribed on behalf of members not present when a Mandate authorising such subscription is produced.

Act II. 1886.—Anent settling Ministers in cases in which the action of the Presbytery is appealed against.

The General Assembly enact and declare, That an appeal shall sist procedure only after a Presbytery shall have moderated in and sustained a Call.

Translations.

Act VI. 1849.—Act anent Translations.

Translations.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain as follows:—

I. In all cases of translation, the Minister, whom it is proposed to translate, shall be heard on the subject, by the Presbytery and the superior courts, at any stage of the proceedings when he shall express a wish to that effect.

II. Immediately after the parties in a case of translation have been heard at the Bar of any Presbytery, the Minister whom it is proposed to translate shall be asked if he has any statement to make.

III. When parties have been heard, and an opportunity has been given to the Minister of declaring his views, the Presbytery shall consider and give judgment whether or not the translation sought for is expedient, and whether or not the Call ought to be presented to their brother for his acceptance.

IV. When the Presbytery or the Court of Review has finally decided that the Call should be put into the Minister's hands, and when the Minister has thereupon accepted the same, judgment shall be given by the said Presbytery or Court of Review, in the usual form, agreeing to the translation, and appointing the said Minister to await, in that matter, the orders of the Presbytery from within whose bounds the Call has come.

Act I. 1897.—Anent Procedure in Vacancies.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain as follows:—

1. When a Presbytery has sustained a Call to a Minister of a Free Church Congregation within Scotland, the Presbytery Clerk shall forthwith send intimation of the fact to the Clerk of the Presbytery to which the Minister belongs, who shall forward said intimation to the Minister, and also to the Clerk of his Kirk-Session; and this intimation shall be sufficient warrant for the Session taking steps to have the Office-bearers and Congregation represented at the first meeting of Presbytery at which the Call is laid on the table, so that it may, if desired, be finally disposed of at that meeting.

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2. At the same meeting at which a Minister accepts a Call, Presbyteries may, if they see cause, appoint an Interim Moderator of Session, who shall be associated with the Minister until his translation, with a view to acting in all matters connected with the approaching vacancy, and shall subsequently take full charge as usual.

3. If this procedure be adopted, a Congregational Meeting shall be called as soon as possible after a Minister has accepted a Call, at which the Interim Moderator shall preside, for the purpose of electing a Congregational Committee, and taking the usual initial steps towards choosing a Minister; but no election of a Minister shall take place until after the outgoing Minister is translated, and the vacancy declared in the usual way.

4. By arrangement with the outgoing Minister, the Congregation may then proceed at once to hear candidates, under the ordinary regulations.

The provisions of Act IV. 1859, in so far as they are inconsistent with the foregoing Regulations, are hereby repealed.

Act IV. 1896.—Anent Regulations as to Ministers on Probationers' Roll.

The Assembly adopt the following Regulations:—

1. In the case of Ministers at home resigning their charges, and applying to be put on the Probationers' Roll, a Certificate from the Presbytery they have left shall be sufficient to warrant the Committee in granting the application.

2. As regards all Ministers returning from foreign charges, whether licensed and ordained by a Presbytery of this Church or not, the Committee is empowered to place their names on the Roll, only on production of a deliverance of the General Assembly admitting them to the full status of ordained Ministers of the Church.

3. The period during which the names shall, in both cases, be retained on the Roll shall be limited to three years.

APPENDIX III.

PROPERTY AND FINANCE.

Free Church Model Trust-Deed.

ACT XVIII. 1844.—ACT ANENT THE TRUST-DEED.

The General Assembly having called for the Report of a Committee appointed to consider the whole matter of the Trust-Deed, the same was given in and read. The Assembly approve of the same, and enacted, and do hereby enact, in terms of said Report, the tenor whereof follows, viz. :—

Your Committee have had several meetings, and deliberated very fully on the whole subject remitted to them, and they unanimously approve of, and recommend the Assembly to adopt, the third or intermediate plan recommended by the Special Commission of last Assembly, viz. :

I. "That the property of each place of worship be vested in Trustees chosen by the congregation, to be held for the congregation, in communion with the Free Church, as attested to be so by the Moderator and Clerk of the General Assembly ; that Church to be identified as in the Model Trust-Deed ; the management of the property to be in the Deacons' Court,—all, as nearly as possible, as under the first plan.

II. "That in the event of a certain proportion of the Ministers and Elders, members of the Church Courts, separating from the general body, and claiming still to be the true *bona fide* representatives of the original protesters of 1843, and to be carrying out the objects of the Protest more faithfully than the majority, then, whatever the Courts of Law may determine, as to which of the contending parties is to be held to be the Free Church, it shall be competent for each congregation, by a majority of its members in full communion, to decide that question for itself, so far as the possession and use of their place of worship and other property are concerned, with or without compensation to the minority,—such compensation to be settled by arbitration." It being understood that a disruption of the Church in the sense referred to in this extract shall consist only in the simultaneous separation, that is, the separation from the general body *at once*, or within a period not exceeding three months, of at least one-third of the ordained ministers of the Church, having the charge of congregations in Scotland ; and that such separation shall take place only on the professed grounds stated in the said deliverance of the Commission of Assembly ; and it being further understood that, in

order to determine who are members of the congregation entitled to dispose of the property in such a case, a roll of all the members of the Church, in full communion, shall be kept in each congregation, and annually attested by the Presbytery of the bounds; and that all such members, and such only, shall be entitled to vote in regard to the disposal of the property as have had their names on said roll for at least twelve months previous to the separation of the said one-third of ministers from the general body. JAMES BEGG, *Convener.*

Model Trust-Disposition executed in conformity with the draft approved of by the General Assembly of the Free Church of Scotland, and by special reference to which it is recommended that all the churches and other property belonging to the congregations in connexion with said Church should be held :—

Introductory Clause.

WE, John Hamilton, Esq., Advocate; John Cadell, Esq., Advocate; John Murray, Esq., residing in Ainslie Place, Edinburgh; Robert Paul, Esq., Manager of the Commercial Bank of Scotland; James Smith, Esq., Builder in Edinburgh'; and Thomas Thomson, Esq., Writer to the Signet, a majority and more than a quorum of the Building Committee appointed by, and authorised to act for behoof of the Kirk-session and Congregation of St George's Free Church of Edinburgh, and as such, having power and being authorized and required, in manner after mentioned, to grant the disposition after written of the subjects and others after described, CONSIDERING, that by disposition dated the 11th, 15th, and 25th days of May, and 1st day of June, and 11th day of July, all in the year 1844, etc. (*here follows the narrative of the conveyance in favour of these parties, and of their title and authority to grant this deed, and that certain ministers and elders had separated from the Established Church of Scotland, and now formed a body of Christians, known by the name of the Free Church of Scotland, separate and distinct from the Established Church,—after which the inductive clause proceeds as follows:*) AND WHEREAS, in order to secure and invest the foresaid subjects and others, and buildings erected on the ground thereof, in connexion with the said Free Church of Scotland, it has been agreed to convey the same to the parties after named and designed, as Trustees, in manner and to the effect following: THEREFORE we, the said John Hamilton, etc., have Alienated and Disponed, as we do hereby Sell, Alienate, Dispone, Assign, Convey, and Make Over, etc., heritably and irredeemably, to and in favour of the said John Cadell, Advocate (*here follow the names and designations of the Trustees, thirty-three in number*); Trustees for the foresaid Congregation of St George's Free Church of Edinburgh, belonging and adhering to the said body of Christians called the Free Church of Scotland, and presently worshipping in Edinburgh, under the pastoral charge of the Rev. Dr Robert Smith Candlish, and to such other person or persons as may, from time to time, be appointed, in virtue of the powers and provisions hereinafter contained, to act in the trust after specified and to the acceptors and survivors, and acceptor and survivor, and the heir of the last survivor of the said Trustees, whether herein named or to be appointed, as said is, the majority of accepting trustees, in life for the time, being always a quorum, and to the assignees and disponees of the said accepting Trustees, whether named or to be appointed as aforesaid, in life, for the time, or of their said quorum, ALL and WHOLE, etc.

Narrative Clause.

Dispositive Clause.

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PURPOSES.

First, To hold in Trust.

(*Here follows a description of the subjects.*) BUT DECLARING that these presents are granted IN TRUST ALWAYS, for the ends, uses, and purposes, and with the powers, and with and under the conditions, provisions, and declarations after specified: THAT IS TO SAY, in trust for the ends, uses, and purposes, and under the provisions and declarations following, viz.:—FIRST, UPON TRUST, That the Building or Place of Worship erected, or in the course of being erected, upon the ground hereby disponed, or any Building or Place of Worship that may hereafter be built and be erected thereon, with the appurtenances thereof, shall in all time coming be used, occupied and enjoyed, as and for a Place of Religious Worship, by a Congregation of the said body of Christians called the Free Church of Scotland, or of any united body of Christians composed of them, and of such other body or bodies of Christians as the said Free Church of Scotland may, at any time hereafter, associate with themselves, under the foresaid name of the Free Church of Scotland, or under whatever name or designation they may assume; and to be made use of by such Congregation, occupying and enjoying the same for the time being, in the way and manner in which, by the usages of the said body, or united body of Christians, Places of Religious Worship may be, or are in use to be, occupied and enjoyed; SECONDLY, UPON TRUST, That the said Trustees or Trustee acting for the time, shall, at all times, and from time to time, hereafter PERMIT and SUFFER to preach and expound the Holy Scriptures, and administer ordinances, and perform the usual acts of Religious Worship within the said Building or Place of worship, erected or to be erected, as said is, such person or persons, and such person or persons only, as may or shall, from time to time, be authorized or appointed so to do, by the said body or united body of Christians, acting through the medium of its Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies, or according to the form or forms in use with the said body, or united body, for the time: PROVIDING always, as it is hereby expressly PROVIDED and DECLARED, that no person or persons, even holding such authority and appointment, as aforesaid, nor any person or persons whatsoever, shall have any right or title to pursue the said Trustees or Trustee, acting under these presents for the time, in any Court of Law or Justice, for the purpose, or with the object and intent, either of obtaining such permission and sufferance as said is, or the continuance thereof, or of obtaining in any manner of way whatever, liberty or the continuance of liberty, to preach and expound the Holy Scriptures, or administer ordinances, or to do or perform any act of Religious Worship or other act or thing, whatsoever, within the said Building or Place of Worship, erected, or to be erected, as said is, or with the object and intent of, in any way, controlling the said Trustees or Trustee, in reference to the use, occupation, management, or disposal of such Building or Place of Worship, unless with the express consent, and concurrence, of the General Assembly of the said body, or united body of Christians, or of the Commission of such Assembly, previously had, to such pursuit; of which consent, and concurrence, the only legal or admissible evidence shall be a written Certificate, under the hand of the Moderator and Clerk of the General Assembly of the said body or united body of Christians, or of their then immediately preceding General Assembly, or under the hand of the parties generally known, or understood, to hold those offices for the time being; which written Certificate shall be

Secondly, That Ministers of Free Church may have use of Building.

But Ministers not to sue the Trustees, except with consent of General Assembly.

produced along with the summons, or other proceeding, commencing such pursuit, otherwise the same shall be utterly incompetent, void, and null, albeit such Certificate really may exist: DECLARING, as it is hereby expressly PROVIDED and DECLARED, that, in the event of any person or persons, even holding such authority or appointment, as aforesaid, or any person or persons whatsoever, pursuing the said Trustees, or Trustee, as aforesaid, unless with such express consent and concurrence as aforesaid, previously had to such pursuit, as said is, evidenced as aforesaid, such person, or persons, shall, immediately on such pursuit being commenced, *ipso facto*, forfeit and lose all and every right, title, and interest, and claim and demand, of whatever description, under these presents, and shall, from thenceforward, cease to have any concern therewith, or interest therein: AND PROVIDING, further, as it is hereby further expressly PROVIDED and DECLARED, that whensoever any person holding such authority or appointment, as said is, and enjoying the permission and sufferance foresaid, shall by a sentence of the said body, or united body of Christians, pronounced by one or other of its Presbyteries, Provincial Synods, or by its General Assembly, or Commission of such Assembly, for the time being, or in any other way, or manner, in use in such matters, for the time, by the said body, or united body of Christians, be deposed, or suspended, from office or cut off from the said body, or united body of Christians, or declared no longer a Minister thereof, his authority and appointment foresaid, shall, *ipso facto*, cease and determine, and the said Trustees, or Trustee acting for the time, shall not only be no longer bound, but be no longer entitled, to permit or suffer him to preach and expound the Holy Scriptures, or administer ordinances, or do or perform any act of Religious Worship, or other act or thing whatsoever, within the said Building, or Place of Worship, erected, or to be erected, as said is; and shall be bound and obliged to debar him therefrom, aye and so long as he remain deposed or suspended, or cut off as aforesaid: THIRDLY, UPON FURTHER TRUST, That the said Building, or Place of Worship, erected, or to be erected, as said is, and whole appurtenances thereof, and generally the whole subjects hereby disponed, shall be under the immediate charge and management (except always as regards the authority and appointment, and relative permission and sufferance, before mentioned) of the Elders and Deacons, or Elders acting as Deacons, for the time being, of the Congregation in the use, occupation, and enjoyment for the time, of such Building or Place of Worship,—such Elders and Deacons, or Elders acting as Deacons, being always subject to such control, as shall, or may, be provided, from time to time, by the said body, or united body, of Christians, through the medium of its Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies, or in the way and manner generally in use in the said body, or united body, for the time: DECLARING always, as it is hereby expressly PROVIDED and DECLARED, that it shall not be in the power of the said Deacons, or Elders, or any of them, or of any, or all, of the individual members of the Congregation, in the use, occupation, and enjoyment, for the time being, of the said Building, or Place of Worship, and appurtenances thereof, or of any or all of said parties, either to maintain themselves in any use, possession, occupation, or enjoyment of the same, as against the said Trustees or Trustee, acting for the time, or to institute against the said Trustees or Trustee, acting for the time, any action, suit, or proceeding, before any Court of Law or Justice, for the purpose, either of obtaining, or

And deposed or suspended Ministers to be debarred from such use.

Thirdly, That Elders and Deacons may have charge and management.

But Elders, Deacons, or others, not to sue the Trustees, except with consent of the Assembly or its Commission.

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maintaining such possession, use, occupation, or enjoyment, or of controlling in any way the said Trustees or Trustee, in reference to the use, possession, occupation or enjoyment, or management, and disposal of such Building, or Place of Worship, unless with the express consent and concurrence of the General Assembly of the said body, or united body of Christians, or Commission of such Assembly, previously had; of which consent and concurrence the only legal or admissible evidence shall be a written Certificate, under the hand of the Moderator and Clerk of the General Assembly of the said body, or united body of Christians, or of their then immediately preceding General Assembly, or under the hand of the parties generally known, or understood, to hold those offices, for the time being; which written Certificate shall be produced along with the summons, or other proceeding, commencing such action, suit, or proceeding; otherwise such action, suit, or proceeding shall be utterly incompetent, void and null, albeit such Certificate may really exist: DECLARING, as it is hereby expressly PROVIDED and DECLARED, that, in the event of any Elders and Deacons, or Elders or Deacons, one or more, or Members or Member of any Congregation, as aforesaid, or all or any of them, instituting against the said Trustees, or Trustee, any action, suit, or proceeding, as aforesaid, for the purposes foresaid, or any of them, unless with such express consent and concurrence as aforesaid, previously had, as said is, evidenced as aforesaid, such party or parties, instituting said action, suit, or proceeding, as aforesaid, shall, immediately on the same being instituted, *ipso facto*, forfeit and lose all and every right, title, and interest, and claim and demand, of whatever description, under these presents, and shall, from thenceforward, cease to have any concern therewith, or interest therein: FOURTHLY, UPON FURTHER TRUST, That the said Trustees, or Trustee, acting for the time, shall, at all times, be subject, in the management and disposal of the said Building or Place of Worship, and appurtenances thereof, and whole subjects hereby disponed, and in all matters and things connected therewith, to the regulation and direction of the General Assembly for the time being, of the said body, or united body of Christians, and shall be liable and bound to conform to, implement, and obey, all and every the Act, or Acts, of the General Assembly for the time being, of the said body, or united body of Christians, in reference thereto; and the Moderator and Clerk of the said General Assembly for the time being, or of the then immediately preceding General Assembly of the said body, or united body of Christians, or the parties generally known, or understood, to hold those offices for the time, shall, at all times, have full power, and sufficient status, and right and interest, to pursue, or defend, any action or actions, in whatever Court, or Courts of Law or Justice, for the enforcement, maintenance, or protection, of the rights, interests, or privileges of the said body, or united body of Christians, or General Assembly thereof, in, or in any way connected with, the subjects hereby disponed, and Building, or Place of Worship, erected, or to be erected, thereon, and appurtenances thereof: DECLARING always, that a Certified Copy, under the hands of the Moderator and Clerk, of the said General Assembly for the time being, or of the then immediately preceding General Assembly of the said body, or united body of Christians, or of the parties generally known, or understood, to hold those offices, for the time, shall always be legal and admissible evidence, in all actions, matters, and things, arising under, or out of, these presents, of the terms of any Act or Deliverance of the General

Fourthly, Trustees to be subject in all things to the General Assembly.

Assembly of the said body, or united body of Christians, or Commission thereof, pronounced, passed, or that may be passed or pronounced; and that a Certificate, under the hand of the Moderator and Clerk of the said Assembly for the time being, or of the parties generally known, or understood, to hold those offices for the time, attached to such Certified Copy, and bearing the date of such Act or Deliverance, and Certifying that the same is, either wholly, or in part, an existing Act of the said Assembly, or Commission thereof, shall always be legal and admissible evidence, in all actions, matters, and things, as aforesaid, of the date of such Act or Deliverance of the said Assembly, or Commission thereof, and of its being still, either wholly or in part, an existing Act or Deliverance as aforesaid: AND DECLARING, further, that a Certified Copy of any Act or Deliverance of any of the Synods or Presbyteries of the said body or united body, under the hands of the Moderator and Clerk of any such Synod or Presbytery respectively, or of the parties generally known and understood to hold those offices for the time, shall always be legal and admissible evidence in all actions, matters, or things arising under or out of these presents, of the terms and date of any Act or Deliverance pronounced by any such Synod or Presbytery respectively: FIFTHLY, It is hereby expressly PROVIDED and DECLARED, That the said Trustees, or Trustee, acting for the time, shall always have full power and liberty to raise, prosecute, and follow forth, whatever action, suit, or proceeding, they may think proper, in whatever Court, or Courts, of Law or Justice, for the purpose or with the intent and object, of excluding any party or parties whatsoever, from all or any use, possession, occupation, or enjoyment, of the Building or Place of Worship, erected or to be erected, as said is, or any part thereof, or generally of the subjects hereby disponed, or any part thereof; and that no party, or parties, whatsoever, shall have any right, or title, whatsoever, to defend such action, suit, or proceeding, either in virtue of these presents, or otherwise, unless with the express consent and concurrence, as aforesaid, of the General Assembly of the said body, or united body of Christians, or the Commission of such Assembly, previously had, to such defence; of which consent and concurrence, the only legal or admissible evidence shall be a written Certificate, under the hand of the Moderator and Clerk of the General Assembly of the said body, or united body of Christians, or of their then immediately preceding General Assembly, or under the hand of the parties generally known, or understood, to hold those offices for the time being; which written Certificate shall be produced along with such defence, otherwise the same shall not be maintainable, but be incompetent, void, and null, albeit such Certificate may really exist: SIXTHLY, It is hereby further expressly PROVIDED and DECLARED, That the said Trustees, or Trustee, acting for the time, shall not have power to burden the said Building, or Place of Worship, or appurtenances thereof, or, generally, the subjects hereby disponed, or any part thereof, with any debts or sums of money, or to sell, alienate, or dispone the same, or any part thereof, unless for the purpose of providing another Place of Worship for behoof of the said body or united body of Christians, in a more suitable or convenient situation; and then only with the consent, first had and obtained, of the General Assembly for the time being, of the said body, or united body of Christians; of which consent the only legal and admissible evidence shall be a Certificate under the hand of the Moderator and Clerk of the General Assembly, for the time being, or of the then immediately preceding General Assembly, or under

Fifthly, Trustees to have power to sue.

And defence against such suits not to be maintainable except with consent of the Assembly or its Commission.

Sixthly, Trustees not to burden or sell,

except with consent of Assembly,

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the hand of the parties generally known, or understood, to hold those offices for the time: PROVIDED ALWAYS, however, and DECLARING, that if, at any time, sufficient provision shall not be made by the Congregation in the use, occupation, and enjoyment of the said Building or Place of Worship, for the time being, or by the Deacons, or Elders acting as Deacons, thereof, for paying the feu-duties, public and parochial burdens, premiums of insurance, and ordinary charges attendant on the property, for keeping the same in repair, or otherwise, then the said Trustees, or Trustee, acting for the time, themselves making provision therefor, and in that case only, shall be entitled, for their relief of their advances for the purposes above mentioned, or any of them, to sell and dispose of the said Building, or Place of Worship, and generally the whole subjects hereby disponed, or any part thereof, free from the whole conditions and purposes of this trust; they always accounting to the General Trustees appointed by the said General Assembly upon the 27th day of May 1844 years, to hold any property to be bequeathed or conveyed to them for behoof of the said Free Church, or of the said body, or united body of Christians, and to the acceptors of the said General Trustees, or their successors in office, for the balance of the price thereof, after replacing any sums advanced, or provided by them for the purpose foresaid, or any of them, and all expenses attendant on the sale; but the purchaser, or purchasers, having, as he or they are hereby expressly declared to have, no concern whatever with such accounting; and the receipts of the Trustees, or Trustee, acting for the time, being always a sufficient discharge and exoneration to the purchaser, or purchasers, for payment of the price: BUT DECLARING always, as it is further hereby specially provided and declared, that in the event of such sale being considered necessary, an offer to sell the said subjects shall, in the first place, be made to the General Trustees foresaid, for payment of the sums which may have been expended by the said Trustees, and may be due to them as aforesaid: And the said General Trustees shall be entitled to purchase the said subjects for payment of the sums which may have been advanced by and may be due to the Trustees of the said Place of Worship, as aforesaid: And the said Trustees last mentioned, on receiving payment of the said sums, shall be bound and obliged to convey the said subjects to the said General Trustees accordingly: SEVENTHLY, It is hereby also expressly PROVIDED and DECLARED, That it shall, at all times, be in the power of any Trustees, or Trustee, whether hereby named, or that may be appointed in virtue of the powers and provisions hereinafter contained, who may have acted in the said trust, to resign the Trusteeship; and that, in the event of any Trustees, or Trustee, whether named or to be appointed, as said is, ceasing to be members of the said body, or united body of Christians, then, and in that case, such Trustees, or Trustee, shall, *ipso facto*, cease to have any right to act under these presents, and the trust shall be thenceforward conducted by the other Trustees, as if such Trustees, or Trustee, ceasing as said is, were actually dead: EIGHTHLY, It is hereby further expressly PROVIDED and DECLARED, That it shall be, at all times, in the power of the Congregation in the use and occupation of the said Building, or Place of Worship for the time being, and such Congregation is hereby expressly empowered, from time to time, and as often as to it shall seem proper and expedient, to appoint, at a meeting called on ten free days' notice, given from the pulpit, immediately after Divine Service in the forenoon, such notice always

or for relief of pecuniary liabilities,

and then to be accountable to the General Trustees.

Before sale to offer to General Trustees.

Seventhly, Trustees have power to resign,

and their office to fall if they cease to be Members of Free Church.

Eighthly, Congregation to have power of Appointing additional Trustees.

specifying the object for which the Meeting is called, Additional Trustees to act under these presents, along with the Trustees who, at the date of such appointment, are surviving and acting; and each and every Additional Trustee, so appointed, shall, by virtue of such appointment, be, *ipso facto*, instantly invested with the same right of property, and with all and every the same rights, powers, and privileges, as any individual Trustee who is actually named and designed in these presents, and infeft, or who may be infeft under the same; such Additional Trustee being, at the same time, always subject and liable, in the same way as such original Trustee, to the whole conditions, provisions, and declarations herein set forth: AND the said Trustees, or Trustee, acting for the time, shall on every occasion of such appointment of Additional Trustees, be bound and obliged to execute a formal Deed of Assumption of such Additional Trustees, containing a formal, and in all respects, complete conveyance of the subjects hereby disponed, in favour of such Additional Trustees and of themselves, and otherwise in terms of these presents; but such Additional Trustees shall, even before the execution of such conveyance, and immediately on their appointment, as said is, have the full right, power, and privilege, of acting in the trust in the same way as any individual Trustee actually named and designed in these presents, and infeft, or who may be infeft under the same: NINTHLY, It is hereby specially PROVIDED and DECLARED, That if, at any time hereafter, one-third of the whole ordained Ministers having the charge of Congregations of the said body, or united body of Christians, or any larger number of the said ordained Ministers, having charges as aforesaid, shall simultaneously, or within a consecutive period not exceeding three calendar months, not only publicly separate from the said body or united body of Christians, but at the same time publicly claim and profess to hold, truly and *in bona fide*, the principles of the Protest of 18th May 1843, herein-before recited, and to be carrying out the objects of the said Protest more faithfully than the majority of the Ministers of the said body, or united body of Christians, and shall unite in forming one body of Christians, having Kirk-Sessions, Presbyteries, Provincial Synods, and a General Assembly, then, and in that case, and anything herein to the contrary notwithstanding, it shall be competent to, and in the power of, a majority of the Congregation, in the use, occupation, and enjoyment of the said Building or Place of Worship, for the time, to provide and declare, by a Deed of Declaration and Appointment under their hands, to that effect duly executed, that the ground hereby disponed, and Building or Place of Worship then upon the same, shall, from thenceforward, be held as in connexion with the body of Christians adhering to the Ministers who shall have separated as aforesaid; and, for this purpose, to require and appoint the said Trustees, or Trustee, acting under these presents for the time, to convey and dispone the ground hereby disponed, and the Building, or Place of Worship, then upon the same, and whole appurtenances thereof, to any three or more Trustees in the said Deed of Declaration and Appointment named, to be held by such new Trustees, and their successors in trust as after mentioned; And, on such Deeds of Declaration and Appointment being executed as said is, the Trustees, or Trustee, acting under these presents for the time, shall be bound and obliged, as they are hereby bound and obliged, at the expense always of the receivers, and on being entirely freed and relieved of all pecuniary obligations then affecting the subjects hereby disponed, or Buildings thereon, or

Ninthly, Provision for the event of a Disruption.

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affecting them as Trustees, or Trustee, under these presents, or for or to which they, as such Trustees or Trustee, may be subject or liable, but no sooner or otherwise, to convey and dispone the ground hereby disponed, and the Building or Place of Worship, then upon the same, and whole appurtenances thereof, to the said new Trustees who shall be in the said Deed of Declaration and Appointment named, and their successors, in trust for the said persons, subscribers of the said Deed of Declaration and Appointment as a Congregation of the said body of Christians who shall have separated as aforesaid, and for the successors of such persons, forming such Congregation for the time being; such new Deed of Trust to be, *mutatis mutandis*, as nearly as possible in the terms and of the import of these presents, and to have for its object the placing the said Congregation of the said body of Christians who shall have separated as aforesaid, and the Minister of such Congregation, and the Elders and Deacons, and Elders acting as Deacons thereof, and the said body of Christians who shall have separated as aforesaid, and its Kirk-Sessions, Presbyteries, Provincial Synods, and General Assembly, and the said new Trustees themselves, in the same relation, respectively, to the ground hereby disponed, and Buildings thereon, and appurtenances thereof, and in the same relation to each other, in reference thereto, as was held before the granting of the said new Deed of Trust by the Congregation using, occupying, and enjoying the same in virtue of these presents, and the Minister of such former Congregation, and the Elders and Deacons, and Elders acting as Deacons thereof, and the said original body, or united body of Christians, and its Kirk-Sessions, Presbyteries, Provincial Synods, and General Assemblies, and the said Trustees, or Trustee, acting under these presents:

Tenthly, Obligation to indemnify Minority.

TENTHLY, It is hereby expressly PROVIDED and DECLARED, That in the event of a Deed of Declaration and Appointment, and new Deed of Trust, being executed as aforesaid, the parties signing such Deed of Declaration and Appointment shall be subject and liable to pay and make good to the minority of the Congregation with whom they were previously connected, who did not sign the said Deed, and for behoof of the said body, or united body of Christians, with which also they were previously connected, a proportion of the net value of the subjects disponed by such new Deed of Trust, corresponding to the number of such minority, as compared with the number of subscribers to the said Deed of Declaration and Appointment:

Eleventhly, Who to be deemed Ministers of Free Church.

ELEVENTHLY, It is hereby expressly PROVIDED and DECLARED, That no person shall be deemed or taken to be an ordained Minister, having charge of a Congregation of the said body, or united body of Christians, in the sense of these presents, unless his name shall appear in an Annual Roll or List of Ordained Ministers, having charges of Congregations belonging to the said body, or united body of Christians, to be annually attested by the Moderator and Clerk for the time of the General Assembly of the said body, or united body of Christians; and that no person shall be deemed or taken to be an ordained Minister, having charge as aforesaid, in the sense of these presents, any longer than his name shall continue to appear in the said Annual Rolls or Lists, attested as aforesaid:

Twelfthly, Who to be deemed Members of the Congregation.

TWELFTHLY, It is hereby further PROVIDED and DECLARED, That no person shall be deemed or taken to be a member of Congregation, in the sense of these presents, or shall be entitled to vote or act in any of the proceedings of the congregation, unless the name of such person shall appear in the Annual Roll or List of the members of the

congregation, in the use, occupation, and enjoyment of the said Place of Worship, being in full communion with the said body or united body of Christians, to be annually attested by the Presbytery connected with the said body, or united body of Christians, of the bounds in which such Place of Worship is situated; and in the event of a disruption as aforesaid, no person shall be entitled to vote or subscribe in relation thereto unless the name of such person shall have appeared on said Roll, attested as aforesaid, for at least twelve calendar months next immediately preceding the public separation or disruption aforesaid; and that no person shall be deemed or taken to be a Member of Congregation in the sense of these presents, or shall be entitled to vote or act as aforesaid, any longer than his name shall continue to appear in the said Annual Rolls or Lists of Members of Congregation, attested as aforesaid: THIRTEENTHLY, It is hereby further PROVIDED and DECLARED, That these presents are granted, and the foresaid subjects and others disponed, with the servitudes and under the conditions and declarations following, viz., (*here follow certain conditions, &c., which have reference exclusively to the ground of St George's Free Church*).

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Thirteenthly.

[THEN FOLLOW Obligation to Infeft. Procuratory of Resignation. Assignation to the Writs and Rents. Clause of Registration. Precept of Sasine, and other clauses in usual form.]

Dated 9th, 11th, and 12th, and recorded in the Books of Council and Session 13th November 1844.

General Trustees.

ACT XXVI. 1844.—ACT APPOINTING TRUSTEES FOR BEHOOF OF THE FREE CHURCH.

MINUTE OF ASSEMBLY, 1ST JUNE 1852.

ACT II. 1905.—ACT ANENT TRUSTEES.

Whereas in the action, Bannatyne, and Others, against Lord Overtoun, and Others, it was, on 22nd October 1904, found and declared by Interlocutor of the Second Division of the Court of Session applying the Judgment of the House of Lords, as follows:—(1) That the association or body of Christians calling themselves the United Free Church of Scotland has no right, title, or interest in any part of the whole lands, properties, sums of money, and others which stood vested as at the 30th day of October 1900 in the Right Honourable John Campbell Baron Overtoun, and Others, general trustées of the Free Church of Scotland: And (2) that the appellants (pursuers) and those adhering to and lawfully associated with them, conform to the constitution of the Free Church of Scotland, are, and lawfully represent the said Free Church of Scotland, and are entitled to have the whole of said lands, property, and funds applied according to the terms of the trust upon which they are respectively held for behoof of themselves and those so adhering to, and associated with them and their successors, as constituting the true and lawful Free Church of Scotland, and that the defenders, the said Right Honourable John Campbell Baron Overtoun, and Others, as general trustees aforesaid, or the defenders second enumerated, or those of the defenders in whose hands, or under whose control the said lands, property, and funds, may be for the time being, are bound to hold and apply the same (subject always to the trusts aftermentioned) for behoof of the pursuers, and

Act anent Trustees, 1905.

APPENDIX VI.

Property and Finance.

those adhering to, and associated with them as aforesaid, and subject to the lawful orders of the General Assembly of the said Free Church of Scotland, or its duly appointed commission for the time being, and, in particular, that they are bound to denude themselves of the whole of said lands, property, and funds in favour of Major Robert Greig, Shortwoodend, Moffat; Robert Reid, Esq., of Killellan, Campbeltown; James Coltart, Esq., Hawkhill, Bearsden, Glasgow; John MacDonald, Esq., 12 Rupert Street, Glasgow; Charles MacKessock, Esq., Wester Mains of Alves, Forres; John Pursell, Esq., Rhynd Lodge, Seafield, Leith (three being a quorum), as General Trustees of the Free Church of Scotland, and their successors in office, but subject always to the trusts upon which the said lands, property, and funds, were respectively held by the said defenders for behoof of the Free Church of Scotland as at 30th October 1900: AND WHEREAS in pursuance of said Interlocutor the said Right Honourable John Campbell Baron Overtoun, and Others, as General Trustees aforesaid, did grant in favour of the said Major Robert Greig, Robert Reid, James Coltart, John MacDonald, Charles MacKessock, and John Pursell, as General Trustees foresaid, and their successors in office, a disposition of certain lands, property, and funds: AND WHEREAS doubts have been suggested as to the position as Trustees of the said Right Honourable John Campbell Baron Overtoun, and Others, and it is expedient that all such doubts should be settled: THEREFORE this Assembly enacts and declares that the said Right Honourable John Campbell Baron Overtoun, and Others, who acted as General Trustees of the Free Church of Scotland at said 30th October 1900, and who have since adhered to, and associated themselves with, the said United Free Church of Scotland, are no longer General Trustees acting under the authority of this Church; and the General Assembly hereby declares that the whole of said lands, property, and funds, which had been vested in the said Right Honourable John Campbell and Others, as aforesaid, at said date, and such further lands, property, and funds, as may have accrued to this Church, or any of its schemes from said 30th October 1900, or which may hereafter accrue to the same, are, and shall henceforth be held only by the said Major Robert Greig, Robert Reid, James Coltart, John MacDonald, Charles MacKessock, and John Pursell, and their successors in office, as General Trustees, acting under the various relative Acts of Assembly of this Church, subject always to the trusts upon which said lands, property, and funds, were respectively held for behoof of the Free Church of Scotland, as at said 30th October 1900.

ACT VIII. 1863.—ACT ANENT SALES AND TRANSFERENCES OF PROPERTY.

ACT X. 1875.—ANENT SALES AND TRANSFERENCE OF PROPERTY.

ACT IV. 1889.—ANENT LIMITATION OF PERIOD OF AUTHORITY TO SELL PROPERTY.

Form of Petition for Power to Sell.

UNTO THE VENERABLE

THE GENERAL ASSEMBLY OF THE FREE CHURCH OF SCOTLAND

THE

PETITION

OF

THE DEACONS' COURT OF THE CONGREGATION OF

Form of Petition for Power to Sell.

Humbly sheweth,

That your Petitioners have resolved, with concurrence of the congregation and of the Presbytery of the bounds, to apply to your Venerable Court for power to sell the present manse and to apply the proceeds for the purchase of a more suitable manse.

May it therefore please your Venerable Court to grant the foresaid power; and your Petitioners will ever pray, etc.

Signed in the name and by the authority of the Deacons' Court.

.....*Moderator.*

.....*Clerk.*

APPENDIX IV.

DISCIPLINE.

The Form of Process.

SESS. 11. APRIL 18, 1707.—ACT APPROVING A FORM OF PROCESS IN THE JUDICATORIES OF THE CHURCH WITH RELATION TO SCANDALS AND CENSURES.

The General Assembly having this day, and at several former diets, had read in their audience the overtures concerning a Form of Process in the judicatories of this Church with relation to Scandals and Censures, which were transmitted by the late General Assembly to the several Presbyteries for their judgment thereupon, and having maturely considered the said whole overtures, with the remarks and observations of Presbyteries made upon the same after full reasoning, both in Committees and open Assembly, upon the several particulars contained in the said Form of Process, the General Assembly did, by their votes, *nemine contradicente*, and hereby do, ratify and approve the foresaid Form of Process as now amended, in the whole heads and articles thereof, and appoint and ordain the same to be observed and practised by the respective judicatories of this Church as an act and ordinance of Assembly, and as fixed binding rules and directions in the whole matters therein contained, except the seventh, eighth, and ninth paragraphs of the fourth chapter, and what concerns the pressing of the Oath of Purgation—as to which the General Assembly supersedes at this time to enjoin the observation thereof as positive standing rules; but they did, and hereby do, unanimously recommend to the several Presbyteries and other judicatories of the Church, that they regulate themselves according to the advice therein insinuated, as they shall find to tend most to edification; the tenor of which Form of Process follows.

APPENDIX X. *The Form of Process.*

CHAPTER I.

Concerning Church Government, Discipline, Scandals, and Censures in general.

1. Our Lord Jesus Christ hath instituted a government, and governors ecclesiastical, in his house, with power to meet for the order and government thereof; and to that purpose, the apostles did immediately receive the keys from the hands of their Lord and

APPENDIX X. *The Form of Process.*

Master Jesus Christ, and did use and exercise the same upon all occasions; and Christ hath from time to time furnished some in his Church with gifts for government, and with commission to exercise it when called thereunto, and has promised his presence to be with them to the end of the world.

2. It is agreeable to and founded on the word of God, that some others, besides those who labour in the word and doctrine, be Church governors to join with the ministers of the word in the government of the Church, and exercise of discipline, and oversight of the manners of the people; which officers are called ruling elders. As also that the Church be governed by several sorts of judicatures, and one in subordination to the other, such as kirk-sessions, presbyteries, provincial synods, and general assemblies.

3. Church discipline and censures, for judging and removing of offences, are of great use and necessity in the Church, that the name of God, by reason of ungodly and wicked persons living in the Church, be not blasphemed, nor his wrath provoked against his people: that the godly be not leavened with but preserved from the contagion, and stricken with fear; and that sinners who are to be censured may be ashamed, to the destruction of the flesh and saving of the spirit in the day of the Lord Jesus.

4. Nothing ought to be admitted by any Church judicature as the ground of a process for censure, but what hath been declared censurable by the word of God, or some act or universal custom of this National Church agreeable thereto; and the several judicatures of this Church ought to take timeous notice of all scandals: but it is judged, that if a scandal shall happen not to be noticed in order to censure for the space of five years, it should not be again revived, so as to enter in a process thereanent, unless it be of a heinous nature, or become again flagrant; but the consciences of such persons ought to be seriously dealt with in private, to bring them to a sense of their sin and duty.

5. These assemblies or Church judicatures before mentioned have power to convene and call before them any persons within their own bounds, whom the ecclesiastical business which is before them doth concern, either as party, witness, or otherwise, and to examine them according to the nature of the affair, and to hear and determine in such cases as shall orderly come before them, and accordingly dispense Church censures.

6. If a person be charged with a scandal, who lives within the bounds of another parish, the kirk-session of the parish where that person resides should be desired to cause cite that person to answer before the session in whose bounds the scandal happened, and the same course is to be followed in such cases by the other judicatures of the Church, seeing, for order's sake, they should not presume to exercise their authority without their own bounds.

7. The minister of the word, holding an office above that of the ruling elder, cannot be liable to the censure of the kirk-session, but to the superior judicatures of the Church.

CHAPTER II.

Concerning the Entering of Processes, Citation of Parties and Witnesses, and taking Depositions, and anent Fugitives from Discipline.

1. Members of kirk-sessions are wisely to consider the information they get of scandals, and consult with their minister thereanent, even before the same be communicate to others, that thereby the spreading of the scandal may be prevented; and it may be removed by private admonition, according to our Lord and Saviour's rule, Matthew xviii. 15, which, if amendment follow, is the far better way of gaining and recovering a lapsed brother, whereas the needless spreading of a scandal does sometimes harden the guilty, grieve the godly, and is dishonourable to religion.

2. When any business is moved in a Church judicature, whether by information, petition, or otherwise, they are in the first place to consider whether the matter, in its circumstantial case, be proper for them to enter upon, and whether it be orderly brought in, and proper for them to cognosce and discuss it themselves, or prepare it for superior judicatures, and should endeavour to shorten their work as much as, with the edification of the Church, they can, especially as to the head of scandal; but still, on all occasions the office-bearers in the house of God are to show all prudent zeal against sin.

3. In proceeding in all causes, where there is any person or parties concerned, the judicature is to see that, before they proceed, these persons or parties be duly sisted before them by a legal and timeous citation in writ, bearing its cause, either at the instance of a party complaining, or at least by order of the judicature; and if they be residing within the parish, the same may be upon forty-eight hours' advertisement, and the execution of the summons bearing its cause, and made before two or three witnesses insert, is to be returned by the beadle or officer in writing, and the persons cited called at the door; and this is especially to be observed by presbyteries and other superior judicatures of the Church.

4. Sometimes it may be fit that the party be privately spoken to before any citation be given or process begun, for their better gaining; in which case the minister is to exercise his own discretion, and take the concurrence of elders and others with him. But if the party cited as above appear not, there ought to be a second, and then a third, citation given by the order of the sessions and presbyteries, either personally, or left at their dwelling-house, before the judicature declare the person contumacious, unless the party be cited to appear before a superior judicature by reference or appeal, in which case there is not that need of so many citations before the superior judicature, the party having actually appeared before the inferior judicature; and being cited *apud acta* to appear before the superior, and the same marked in the minutes, or having being declared contumacious before the cause was brought before the superior judicature.

5. All citations *apud acta* are peremptory, and if instructed, infer contumacy, if not obeyed.

6. If the person do not appear on the third citation, or upon a citation *apud acta*, and no relevant excuse be adduced and verified, though in that case he be censurable for contumacy, yet it may be fit

APPENDIX X. *The Form of Process.*

that the judicature proceed to take cognition, either by examining witnesses upon oath, or by other documents, of the verity of the scandals delated against him, before they censure him for contumacy.

7. If the party appear, then the moderator is to inform the person of the occasion of his being called, and to give him, if desired, a short note in writing thereof, with the names of the witnesses that are to be made use of.

8. There seems to be no need of accusers or informers in ecclesiastical processes, where the same are not raised at the instance of a party complaining formally; but the party, if cited by order of the judicature, is to answer the judicature in what is laid to his charge; yet so, that if the party cited be found innocent and acquitted, those who informed the judicatory, whether the party require it or not, ought to be noticed, for either their calumny or imprudence, as the judicatory shall find cause.

9. If there be witnesses to be made use of in the process, a list of their names ought to be given to the defenders some time before, or at least at their compearance, and the witnesses ought to be timeously cited to give evidence; and if they refuse, after three citations given, and executions returned, they may be proceeded with as contumacious, or, if judged needful, after the first or second citation, application may be made to the civil magistrate, that he may oblige them to appear.

10. Before the witnesses be judicially examined, the accused person is to be called, and the relevancy of the libel discussed; and if the defender. compear, he may object against any of them, and if the objection be relevant, and made evident to the judicatory, the witnesses are to be cast; but a person's being the delator or informer doth not hinder him to be a witness, except in the case where he formerly complained for his own interest, or of pregnant presumptions of malice against the persons accused.

11. Though there be no relevant objection, yet the witnesses are solemnly to be purged of malice, bribe, or good deed done or to be done, and of partial counsel.

12. The witnesses are to be examined in presence of the accused party, if compearing, and he may desire the moderator to propose such questions or cross-questions to the witnesses as may tend to his exculpation, which, if the judicatory think pertinent, are to be proposed; but no accused person is to interrupt the witnesses, or speak during the time of deposition.

13. If the party accused do before probation offer grounds of exculpation to be proven by witnesses, the moderator and clerk, if required, are to give warrant to cite the witnesses upon the party's charges, the relevancy of the offered exculpation being first considered and sustained by the judicatory; and if the exculpation be fully proven as to the substance of the scandal, all further proof of the libel and accusation must there sist, and the defender is to be assoilzied; and if the libel be special as to the time and place of a fact, and the accused more pregnantly allege and clearly prove *alibi;* but if the substance of the scandal be once sustained and deponed upon, there can be no place of exculpation, unless it be as to some extenuating or alleviating circumstances not contrary to, but consistent with, the depositions already taken.

14. If the witnesses cannot subscribe their names to their depositions, the clerk is to mark that they declare they cannot write, and the moderator is to subscribe the same, whether they can subscribe or not.

15. After the depositions are ended, the parties being removed, the members of the judicature, at the same or some after diet thereto appointed, are to advise the cause, and there and then to reason the affair calmly, speaking always to the moderator one after another, without interrupting one another, using no reflecting language to, or of one another, nor too long harangues or digressions.

16. If any person or persons under process for scandal abscond, they shall, after being called before the judicature and not compearing, be cited first from the pulpit of the parish where the process depends and where they reside; and if they do not thereupon appear before the judicature before whom the process depends, they are, by order of the presbytery, to be cited from the pulpits of all the kirks within their bounds to compear before the presbytery; and if they do not then compear, they are to be declared fugitive from the Church discipline, and the same intimate in all the kirks within the bounds of the presbytery, desiring, that if any know of the said fugitives, they may acquaint the minister or elder of the bounds thereof, and the presbytery are to sist there until they get further notice of these persons.

CHAPTER III.

Concerning Swearers, Cursers, Profaners of the Lord's day, Drunkards, and other Scandals of that nature.

1. It may fall out that one single act of drunkenness or breach of the Lord's day, disobedience to parents, or of swearing, cursing, scolding, fighting, lying, cheating, or stealing, may be clothed with such circumstances as may be a just ground of process immediately, and even bring the persons guilty under the censure of the lesser excommunication, and suspension from the benefit of the sealing ordinances, and require their appearance in presence of the congregation to be rebuked, before relaxation; but the weight of this is duly to be pondered, and Church judicatures, and members thereof, are to consider whether private admonition of the persons alleged and found guilty of the above scandals, if not clothed with such circumstances, or bringing them to the public, will tend most to edification, and proceed accordingly.

2. But ordinarily, in all such offences, the guilty, for the first fault, should be spoken to in private by the minister or an elder, and admonished; and on promise, from a sense of guilt, to amend, they may sist there.

3. But if the person relapse, he should be called before the session, and if found guilty, may be there judicially rebuked, where the session, on promise, from a due sense of sin, to amend, may again sist there.

4. But if the person amend not after that, the session should orderly proceed, unless repentance appear, and due satisfaction be offered, till they inflict the censure of the lesser excommunication, and suspension from the benefit of the sealing ordinances, under which the censured are to lie till amendment and reformation.

5. With respect to scandals, the grossness whereof makes it necessary to bring the persons guilty oftener than once before the congregation, the rules prescribed by 4th Act of General Assembly *anno* 1705, are to be followed.

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The Form of Process.

6. If the guilty persons continue in this condition, or lie under the censure of the lesser excommunication a considerable time, and yet be found frequently relapsing in these vices they are censured for, it may be constructed such a degree of contumacy, and so aggravate the crime, as to found a process of the censure of the higher excommunication, which is to be inflicted, or not, as may tend most to the reclaiming of the guilty person, and edification of the Church.

CHAPTER IV.

Concerning the Sin of Fornication, Adultery, and Scandalous Carriage tending thereto.

1. In delations about the sin of uncleanness, it falls frequently out that when the matter is put to the strictest trial, all that can be proven is but presumptions of guilt, or scandalous behaviour, and not the act of uncleanness, the same being a work of darkness; and therefore this should oblige the kirk-session to be very cautious how to admit the public entering a process without good warrant, where there is not a child in the case, unless the scandal be very flagrant.

2. Many of these actions which give occasion to the raising a scandal of uncleanness, are such as are not themselves alone publicly censurable, but to be passed by with a private rebuke or admonition.

3. Yet some of these actions which come under the name of scandalous behaviour may be so lascivious and obscene, and clothed with such circumstances, as may be as offensive as the act of uncleanness itself, and as censurable.

4 If a married woman, whose husband hath been notourly absent for a considerable time beyond the ordinary time that women use to go with child, be found with child, this also may give ground to a kirk-session for a process against her; but in this case judicatures should be prudent in considering well all circumstances, and whether or not the person hath been always of entire fame before, as also how the public fame now runs.

5. When an unmarried woman is known to be with child, the same gives ground to a kirk-session for a process against her, and after she is cited before the session and appeareth, she is to be interrogate who is the father of that child; and though in other cases the divulging of a secret may be very imprudent, and indeed the raising of a scandal, yet in this case, where there is a child, whereby there is an undeniable scandal, and the keeping secret of the father a ground of greater offence, and of suspecting many innocent persons, if she discover not the father she is to be looked upon as contumacious.

6. Prudence may sometimes require that the person she nameth to be the father of the child be informed thereof, and spoken to privately, and if he deny the same, he is seriously to be dealt with to confess; but if he still deny, then the session is to cause cite him to appear before them.

7. In this process, when the delated father compeareth he is to be interrogate, and if he deny, he is to be confronted with the woman, and the presumptions as particularly held forth as possible; and all along there should be private treating with him, in all meekness, charity, and seriousness; and if after all this he deny, though the woman's testimony can be no sufficient evidence against him, yet

pregnant presumptions, such as suspicious frequenting her company, or being *solus cum solâ in loco suspecto*, or in suspect postures, and suchlike, which he cannot disprove to the satisfaction of the session, may so lay the guilt upon him, as to show him that there appears no other way of removing the scandal, but his appearance to be publicly rebuked therefor. If he will not submit himself to be rebuked as above, it perhaps may be more for edification that a true narrative of the case be laid before the congregation, and intimation given that there can be no further procedure in that matter, till God in his providence give further light, and to sist there at the time, than that an oath be pressed, and upon refusal proceed to the higher excommunication; but if the person accused do offer his oath of purgation, and crave the privilege thereof, the presbytery may (if they shall judge it for edification and removing of the scandal) allow the same, which may be to this purpose. "I, A. B., now under process before the presbytery of , for the sin of , alleged to be committed by me with C. D., and lying under that grievous slander, being repute as one guilty of that sin; I, for ending of the said process, and giving satisfaction to all good people, do declare before God and this , that I am innocent and free of the said sin of , or having carnal knowledge of the said C. D., and hereby call the great God, the judge and avenger of all falsehood, to be witness and judge against me in this matter, if I be guilty; and this I do by taking his blessed name in my mouth, and swearing by him, who is the great judge, punisher and avenger, as said is, and that in the sincerity of my heart, according to the truth of the matter and mine own conscience, as I shall answer to God in the last and great day, when I shall stand before him to answer for all that I do in the flesh, and as I would partake of his glory in heaven after this life is at an end."

8. In taking this oath for purgation, all tenderness and caution is to be used, nor is the session to press any man thereto, but they are to deal with him and his conscience as in the sight of God; and if he offer to give his oath, the judicature are to accept it or not as they shall see cause, and then to proceed to remove the scandal, with the advice of the presbytery, as may be most to edification. But this oath is not to be taken in any case but this, when the presumptions are so great that they create such jealousy in that congregation and session, that nothing will remove the suspicion but the man's oath of purgation, and when his oath will probably remove the scandal and suspicion: in all other cases this oath is in vain, and so should not be admitted, and never but by advice of the presbytery.

9. This oath for purgation is to be taken either before the kirk-session or presbytery, or the congregation, as the presbytery shall determine; and if the oath be taken before the session or presbytery, it is to be intimate to the congregation that such a person hath taken such an oath, and the party may be obliged to be present in the congregation, and may be put publicly to his own purging himself by oath, and so be declared free from the alleged scandal.

10. After an end is made as above with the delated father, the woman is to be dealt with to give the true father; and if, after all serious dealing and due diligence, she give no other, she is to be censured according to the quality of the offence confessed by her, without naming the person delated by her, the judicature reserving place for further censure upon further discovery.

11. If the woman who hath brought forth the child doth declare

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she knoweth not the father, alleging she was forced, as in the fields, by a person unknown, or any the like reason; in these cases great prudence is to be used, the former behaviour of the woman exactly searched into, and she seriously dealt with to be ingenuous; and if she hath been of entire fame, she may be put to it to declare the truth as if she were upon oath, but not without the advice of the presbytery, and no formal oath should be taken; and if the woman confess she was not forced, but doth not know the man, whether married or unmarried, the same censure is to be inflicted upon her as in the case of adultery.

12. If a person doth voluntarily confess uncleanness, and if there be no child, and the case be brought to the kirk-session, the session is to inquire what presumptions there are of the truth of the thing confessed, or what may have moved the person to make that confession, whether it floweth from disquietude of mind, or from sinistrous design, as when a man suing to a woman for marriage is denied, and for revenge, or for to obtain his desire, spreads the report that he hath been guilty with her, they are to be dealt with according as the presumptions upon search are found or not.

13. If it be found that there is no ground for the confession, and that it is false, the person confessing is to be censured as defaming himself, and likewise as a slanderer of the other party; and withal, application is to be made by the session to the civil magistrate, that he may be punished according to law.

14. If there be need of witnesses, the directions formerly mentioned (Chapter II.) are to be followed.

15. When persons guilty of uncleanness live, one in one parish and another in another parish, the process against them, and censures, are to be before the session of the parish where the woman liveth, or where the scandal is most notour.

16. If a scandal of uncleanness be committed where neither parties reside, as if persons having their fixed residence in one parish do commit uncleanness in another parish, or perhaps in the fields, or in the time of fairs or markets; in these cases they are to be processed and censured where their ordinary abode is, except the place of their abode be at a considerable distance from the place where the sin was committed, and the scandal be most flagrant where it was committed.

17. When there is a scandal of uncleanness whereof persons are guilty living in different parishes, the session where the sin was committed is to acquaint the other sessions where any of the persons reside, who are *ex debito* to cause summon these persons to appear before that session where the scandal is to be tried.

18. When a person is convict of scandal by a session of another congregation than his own, and the censure of the lesser excommunication is inflicted, the session is to send an account thereof to that session to which he belongs; but there is no need of any other sentence of his own session to fix the censure on him, but only a public intimation thereof to be made in his own parish.

19. When a person is censured and absolved from his scandal in another congregation than where he lives, he is to bring a testimonial of his absolution, which is to be intimate to the congregation he lives in, if the scandal be also flagrant there; otherwise it will be sufficient to intimate the same to the session, and the same is to be done in the case of the profession of repentance, where there has been a sentence of the lesser excommunication.

CHAPTER V.

Concerning Appeals from a Kirk-Session to a Presbytery, etc.

1. All persons who judge themselves lesed by the procedure or sentence of a kirk-session, may appeal to the presbytery, by declaring and protesting at passing of the sentence, and should thereupon, according to the 8th Act of the General Assembly, 1694, give in the appeal with the reasons thereof in writ, to the moderator or clerk of the session, within the space of ten days after the time of appealing, and procure extracts thereof, and present the same to the next meeting of presbytery thereafter, if there be a competent time, at least ten days free betwixt the time of appealing and the meeting of the presbytery; and should then insist in the appeal, wherein, if the appellant fail, the appeal *ipso facto* falls, and becomes null, and the appellant is to be held as contumacious, and proceeded against accordingly by the kirk-session.

2. When an appeal is brought from a kirk-session to a presbytery, the presbytery is to consider whether the cause is of that nature as it behoveth at length to come to the presbytery by the course of discipline, before the final determination thereof; as if it be in a process of alleged adultery, or suchlike, then the presbytery, to save themselves time, may fall upon the consideration of the affair, without insisting much upon the *bene* or *male appellatum*, though it seem to be preposterously appealed.

3. But if the cause be such as the kirk-session are the competent and proper judges of, even to its ultimate decision, and if there hath been no cause given by the kirk-session, by their breaking the rules of an orderly process, either by the course of the process, or by the incompetency of the censure, the presbytery is not to sustain the appeal.

4. If the presbytery do not sustain the appeal, and find there hath been some fault, passion, or culpable mistake, in the appellant, the presbytery is to inflict some censure, such as a reproof before the presbytery, or appoint an acknowledging of their precipitancy before their own session, or suchlike, on these appealers they find to have been malicious and litigious, thereby to prevent unnecessary appeals; and that besides remitting back to the session, to stand either to the censure of the session, if it be inflicted already, or to sist themselves during the process, if it be depending.

5. If the appeal be sustained, and yet upon proceeding on the cause the presbytery find the appellant censurable, it is always to be minded, that whatever censure be inflicted to remove the offence he hath given to the presbytery, yet the appellant, if found guilty, is to undergo a censure, either before the kirk-session or congregation he belongs to, such as the presbytery thinks he deserves, else presbyteries will be always troubled with appeals.

6. If, on the other hand, on trial of the process, the presbytery find the kirk-session hath unwarrantably proceeded, either in contributing to the raising of a scandal, or inflicting the censure without a sufficient cause, and thereby the appellant lesed, the presbytery is not only to assoilzie the appellant, but to take such ways as may be proper and effectual to vindicate the appellant's innocency, and wipe off the scandal taken at him.

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7. Herein the presbytery is to exercise great prudence, doing justice to the innocent, yet so as not to weaken the kirk-session's authority in that congregation, if in justice it can be avoided.

8. But such an emergent may very well occasion the presbytery's giving the minister and elders of that session suitable injunctions and rules to walk by, or private admonitions, or to call for a visitation of their session register.

9. The same method is to be followed in appeals from presbyteries to synods, and from synods to general assemblies.

10. An appeal being made by parties, should sist the execution of the sentence appealed from, only while the appeal is duly and diligently prosecute, and may thereby be determined; otherwise not, unless the judicature appealed to receive the appeal, and take the affair before them, and in that case the judicature appealed from is to sist until the appeal be discussed

CHAPTER VI.

Concerning Processes, which natively begin at the Kirk-Session, but are not to be brought to a final determination by them.

1. There are some processes, which natively begin at the kirk-session, which, for the atrocity of the scandal, or difficulty in the affair or general concern, the session having the opportunity of frequent meetings of the presbytery to have recourse thereunto, do not determine of themselves; such as scandals of incest, adultery, trilapses in fornication, murder, atheism, idolatry, witchcraft, charming, and heresy and error, vented and made public by any in the congregation, schism and separation from the public ordinances, processes in order to the highest censures of the Church, and continued contumacy; but the kirk-session having received information of such gross scandals, they are to weigh the same according to the rules and directions prescribed them in processes which belong to their peculiar province, and if they find good ground for a process, they are to deal with the person accused to confess that which now cannot be hid nor amended, till satisfaction be made to the Church, which, when done, the session is to refer the case, and send an extract of their procedure thereanent to the presbytery.

2. When there is no confession of the scandals above mentioned, the session are not to proceed to lead probation by witnesses or presumptions, till an account of the matter be brought by reference to the presbytery as aforesaid, and the presbytery do thereupon appoint the session to proceed and lead probation; and after probation is led, the same is to be brought to the presbytery, who may inflict what censure they see cause.

3. Sometimes it will fall out that the process is so clear, as in a case of judicial confession, that the kirk-session may summon the delinquents when before them *apud acta*, to compear before the presbytery, without previous acquainting them thereof; but where there is any difficulty, the kirk-session should inform the presbytery, and take their advice, before a party be summoned before them.

4. When the party or parties compear before the presbytery, if they confess and profess repentance for their sin, then the presbytery, having gravely rebuked and seriously exhorted the party or parties,

are to determine the censure, and prescribe the time and place of the parties, their profession of their repentance publicly in the church of that congregation where the process began, the scandal being there to be taken away, or remit them to the session, to stand either to the censure of the session, or receive orders thereanent.

5. It is thought more fit that the delinquents be appointed to remove the scandal in the congregation where the offence is most flagrant, especially if they reside there, rather than in the place where it was committed, if it be not public there, and that information of the removing thereof be made in other places, if the judicature shall find it needful.

6. When persons censured for these grosser scandals do apply to the kirk-session for relaxation, they may both be privately conferred with, and likewise their acknowledgments heard before the session; but they ought not to be brought before the congregation, in order to their absolution, nor absolved, but by advice and order of the presbytery.

CHAPTER VII.

Concerning Processes against Ministers.

1. All processes against any minister are to begin before the presbytery to which he belongeth, and not before the kirk-session of his own parish.

2. The credit and success of the gospel (in the way of an ordinary mean) much depending on the entire credit and reputation of ministers, their sound doctrine, and holy conversation, no stain thereof ought lightly to be received, nor when it comes before a judicature ought it to be negligently inquired into, or when found evident, ought it to be slightly censured.

3. And because a scandal committed by a minister hath on these accounts many aggravations, and once raised, though it may be found to be without any ground, yet it is not easily wiped off; therefore a presbytery would exactly ponder by whose information and complaint it comes first before them, and a presbytery is not so far to receive the information, as to proceed to the citation of a minister, or any way begin the process, until there be first, some person who, under his hand, gives in the complaint, with some account of its probability, and undertakes to make out the libel. 2*d*, Or at least do, before the presbytery undertake to make it out, under the pain of being censured as slanderers. Or, 3*d*, That the *fama clamosa* of the scandal be so great, as that the presbytery, for their own vindication, see themselves necessitate to begin the process, without any particular accuser; but the presbytery in this case should be careful, first to inquire into the rise, occasion, broachers, and grounds of this *fama clamosa*.

4. All Christians ought to be so prudent and wary in accusing ministers of any censurable fault, as that they ought neither to publish or spread the same, nor accuse the minister before the presbytery, without first acquainting the minister himself, if they can have access thereto, and then, if need be, some of the most prudent of the ministers and elders of that presbytery, and their advice got in the affair.

5. If there shall be ground found to enter in a process against a minister, the presbytery should first consider the libel, then order him to be cited, and to get a full copy, with a list of the witnesses' names

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to be led for proving thereof, and a formal citation in writ is to be made either personally, or at his dwelling-house, bearing a competent time allowed to give in answer to the libel, and his just defence and objections against witnesses, at least ten free days before the day of compearance, and the citation should bear the date when given, and the names of the witnesses to the giving thereof; and the execution, bearing its date, with the names and designations of the witnesses, should be made in writ, and signed by the officer and witnesses; which being accordingly returned, he is to be called, and if he compear, the libel is to be read unto him, and he is to be inquired if he has answers to give in to the libel, that they may be read and considered, in order to the discussing of the relevancy; and if the presbytery find the same, and that there is cause to insist, they are to endeavour to bring him to a confession, whereby he may most glorify God; and if he confess, and the matter confessed be of a scandalous nature, censurable in others, such as the sin of uncleanness, or some other gross scandal, the presbytery (whatever be the nature of his penitency, though to the conviction of all) are *instanter* to depose him *ab officio*, and to appoint him in due time to appear before the congregation where the scandal was given, and in his own parish, for removing the offence, by the public profession of his repentance.

6. If a minister be accused of any scandal, and cited to appear before his own presbytery, and do absent himself by leaving the place and be contumacious, without making any relevant excuse, after a new public citation and intimation made at his own church, when the congregation is met, he is to be holden as confessed, and to be deposed and censured *instanter* with the lesser excommunication; but if after some time he do not return and subject himself to the censure of the Church, he may be proceeded against till he be censured with the greater excommunication, if the judicature see cause for it.

7. If the minister accused do appear and deny the fact after the relevancy is found, the presbytery proceeding to probation, and to find the truth of the matter, all the circumstances are to be exactly canvassed, and the accused heard to object against the witnesses. As also, he should be allowed to be present at the examination, and modestly to cross-interrogate, and then the reputation of the witnesses and their hability duly regarded, and the examination considered. If, after consideration of all these, the judicature shall find the scandal sufficiently proven, they are to proceed to censure, as advised in the case of confession.

8. If the matter laid to the minister's charge be such practices as in their own nature manifestly subvert that order, unity, and peace which Christ hath established in his Church, or unsoundness and heterodoxy in doctrine, then great caution should be used, and the knowledge and understanding of witnesses much looked into; and withal, if the errors be not gross and striking at the vitals of religion, or if they be not pertinaciously stuck unto, or industriously spread, with a visible design to corrupt, or that the errors are not spreading among the people, then lenitives, admonitions, instructions, and frequent conferences are to be tried to reclaim without cutting off, and the advice of other presbyteries sought; and unless the thing be doing much hurt, so as it admits of no delay, the Synod or General Assembly may be advised with in the affair, and the same intimate to the minister concerned.

9. If the libel and complaint brought against a minister be a

multitude of smaller things laid together, as several acts of negligence, or other unsuitable actions, the presbytery in proceeding therein are to make a presbyterial visitation of that parish to which the minister belongs; and at the said visitation are first to see if any of these things now laid to the minister's charge were committed prior to the last presbyterial visitation of that parish, and whether they were then laid to his charge; and if they were not, it should be tried how they come to be laid to his charge now.

10. If the presbytery find these things laid to his charge to be committed since the last visitation, or find a satisfying reason wherefore they were not then tabled, they are to inquire what diligence hath been used in acquainting the minister with the offence taken at these things when first committed by him, and how far the minister hath been guilty of giving offence, after he knew offence to be taken.

11. It should likewise in this case be inquired, whether any of the complainers did first in a prudent private way inform any of the neighbour ministers of some of these things committed by their minister, who is now challenged, before these offences came to be so many as to merit a public and solemn trial; and accordingly the presbytery is to judge.

12. If the presbytery find, upon trial, the complaint to resolve upon the minister's having committed such acts of infirmity or passion, as, considering all the circumstances, may be either amended and the people satisfied, and no such offence taken, or at least not to remain, so as to hinder the minister's profiting the people, and that the offence was taken by the minister's own people only or mainly; then the presbytery is to take all prudent ways to satisfy and reclaim both minister and people, and do away the offence.

13. But before a minister deposed for scandalous carriage can be restored to the exercise of the ministry, there should not only be convincing evidences of a deep sorrow for sin, but an eminent and exemplary humble walk, and edifying conversation, so apparent and convincing as hath worn out and healed the wound the scandal gave.

14. Immediately on the minister's being deposed by the presbytery, the sentence is to be intimate in his congregation, the church declared vacant, the planting thereof with another minister hastened, and never delayed on the expectation of his being reponed, it being almost impossible that ever he can prove useful in that parish again.

CHAPTER VIII.

Concerning Processes in order to the Censure of the Greater Excommunication.

1. Since there is a distinction betwixt the greater and the lesser excommunication, it seems that whatever have been the causes of the first process, yet ordinarily all processes that are in order to the greater excommunication are to be grounded on manifest contumacy, or obstinate continuance in scandalous practices; and where there is no manifest contumacy, or continuance as aforesaid, the lesser excommunication needs only have place. Yet in some extraordinary cases, the Church, according to Scripture warrant, hath summarily excommunicated persons guilty of notour atrocious scandalous sins, to show the Church's abhorrence of such wickedness.

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2. Even where there hath been a scandal delated, and contumacy following by not appearing, it should be considered whether any scandalous practice hath been proven or not; if not proven, then only the simple contumacy is to be proceeded against, for which it were hard to go a greater length than the lesser excommunication.

3. If the scandal hath been proven, and the censure of the lesser excommunication intimated, as in Chapter III., it seems most reasonable that there be no further proceeding, unless the scandal be gross, or of a heinous nature, or that it is spreading and infectious, as in heresies or schism in the Church: in which cases contumacy is to be proceeded against, in order to the greater excommunication.

4. The kirk-session having brought the process to an intimation of the censure of the lesser excommunication, before they inflict the same, they are to refer the affair to the presbytery, bringing their whole proceedings before the presbytery in write, that the presbytery may thereby have a clear and full view of the whole affair.

5. The presbytery finding the kirk-session hath orderly proceeded, and that the lesser excommunication is not sufficient, and that the affair is so weighty as to oblige them to enter on the process, they are to cause their officer to cite the scandalous person.

6. If the party appear, then the presbytery is to proceed in the inquiry at the accused, about the scandal alleged and libelled; and if he deny it, then they are to proceed, and lead probation as in other cases

7. But if the party appear not, but contemn the citation, the presbytery causeth renew the same, until he hath got three citations, and after the three citations, he is to be cited out of the pulpit: and for the further conviction of all concerned, intimation is to be made, that the judicature will proceed and inquire into the presumptions or probation of the guilt, and this is to be done although the delinquent be absent.

8. Then the presbytery is to order the minister of the congregation, next Sabbath after forenoon's sermon, to acquaint the congregation what proceedings the kirk-session first, and thereafter the presbytery, hath made in the affair, and how contumacious the party was, and that the presbytery intended to proceed to the highest censure; and the minister is gravely to admonish the party (if present) to repent and submit himself to the discipline of the Church, threatening him, if he continue impenitent, that the Church will proceed; yea, though he be absent, the minister is to acquaint the people that the Church requires him to repent and submit, as above said, under the foresaid certification.

9. There should be three public admonitions, and a presbytery should intervene betwixt each admonition; and if, after all, that person continue impenitent or contumacious, the same is to be represented to the presbytery, who are thereupon to appoint public prayers thrice to be made, in which the minister is to exhort the congregation seriously to join with him in prayer, for the scandalous, impenitent, or contumacious person, which he is solemnly to put up to God, humbly begging that he would deal with the soul of the impenitent, and convince him of the evil of his ways.

10. These public prayers of the Church are to be put up three several Sabbath days, a presbytery (where its meetings are more frequent, once a month at least) intervening betwixt each public prayer, both to show the Church's tenderness towards their lapsed brother, their earnestness to have him reclaimed, and likewise to create

a greater regard and terror of that dreadful censure both in the party and in all the people.

11. If after all, the scandalous person makes no application, but continues impenitent, the presbytery, after prayer, is to pass sentence, and appoint a minister to intimate the same, and to show the presbytery's resolution to proceed upon such a Sabbath as they shall name, for pronouncing that dreadful sentence solemnly in face of the congregation, unless either the party, or some one for him, signify some relevant ground to stop their procedure.

12. That day being come, it were fit the minister did preach a sermon suited to that solemn occasion, or, at least, after sermon the minister should show the congregation what he is going about, introducing the narrative of the process, with a discourse concerning the nature, use, and end of Church censures, particularly that of the greater excommunication, if he hath not done it fully in his sermon.

13. Then narrating all the steps of the process in order, showing the Church's faithfulness and tenderness towards the scandalous person, and declaring his obstinate impenitency ; and that now, after all other means were used, there remained only that of cutting off the scandalous person from the society of the faithful, and intimating the Church's warrant and order to him so to do.

14. And before the minister pronounce the sentence, he is to pray, and desire all the congregation to join with him therein, that God would grant repentance to the obstinate person, would graciously bless his own ordinance, and make the censure effectual, both to edify others, and to be a mean to reclaim the obstinate sinner.

15. Then, after prayer, the minister is with great gravity and authority to pronounce the censure, showing his warrant from our Lord's command, and the apostle Paul's direction, and recapitulating the presbytery's warrant in obedience thereunto, and resuming the scandalous and obstinate person's behaviour, whom he is to name. He, therefore, in the name and authority of our Lord and Master Jesus Christ, doth, *in verbis de præsenti* pronounce and declare him or her excommunicated, and shut out from the communion of the faithful, debarring that person from their privileges ; and, in the words of the apostle, delivering that person over to Satan ; which sentence is to be intimate according to the 9th Act of the Assembly, *anno* 1704.

16. If, after prayer, or before the censure be pronounced, the scandalous person do make any public signification of his repentance, and of his desire to have the censure stopped, the minister, upon apparent seriousness in the scandalous person, which he showeth to the congregation, may thereupon delay pronouncing the sentence, till he report to the presbytery at their next meeting, who are then to deal with the scandalous person as they shall find cause.

17. After the pronunciation of this sentence, the people are to be warned, that they hold that person to be cast out of the communion of the Church, and that they shun all unnecessary converse with him or her ; nevertheless excommunication dissolveth not the bonds of civil or natural relations, nor exempts from the duties belonging to them.

18. Although it be the duty of pastors and ruling elders to use all diligence and vigilance, both by doctrine and discipline respectively, for preventing and purging out such errors, heresies, schisms, and scandals, as tend to the detriment and disturbance of the Church,

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yet because it may fall out, through the pride and stubbornness of offenders, that these means alone will not be effectual to that purpose, it is therefore necessary, after all this, to employ the aid of the civil magistrate, who ought to use his coercive power for the suppressing of all such offences, and vindicating the discipline of the Church from contempt.

CHAPTER IX.

Concerning the Order of Proceeding to Absolution.

1. If after excommunication the signs of repentance appear in the excommunicated person, such as godly sorrow for having incurred God's heavy displeasure by his sin, occasioned grief to his brethren, and justly provoked the Church to cast him out of their communion, together with a full purpose of heart to turn from his sin unto God through Christ, and to reform his life and conversation, with a humble desire of recovering peace with God and his people, and to be restored to the favour of God and light of his countenance, through the blood of Jesus Christ, and to the communion of the Church; and the presbytery, upon his application, be satisfied therewith, and judge that he ought to be absolved, and thereupon give warrant for his absolution, he is to be brought before the congregation, and there also to make free confession of his sin, and sorrow for it, to call upon God for mercy in Christ, to seek to be restored to the communion of the Church, promising to God, through grace, new obedience, and more holy and circumspect walking as becomes the gospel; and that this appearance before the congregation be as often as church judicatures shall find may be for edification and trial of the professing penitent's sincerity; and being satisfied in this, then the minister and congregation are to praise God, who delighteth not in the death of a sinner, but rather that he should repent and live; as also for blessing the ordinance of excommunication, and making it effectual by his Spirit to the recovering of this offender, to magnify the mercy of God through Jesus Christ, in pardoning and receiving to his favour the most grievous offenders, whensoever they unfeignedly repent and forsake their sins. But before the minister proceed to absolution, he is to pray with the congregation to this effect:—"That the Lord Jesus Christ, Prophet, Priest, and King of his Church, who, with the preaching of the gospel, hath joined the power to bind and loose the sins of men; who hath also declared that whatsoever by his ministers is bound on earth shall be bound in heaven, and also that whatsoever is loosed by the same shall be loosed and absolved in heaven, would mercifully accept his creature N., whom Satan of long time hath holden in bondage, so that he not only drew him to iniquity, but also so hardened his heart that he despised all admonitions; for the which his sin and contempt the Church was compelled to excommunicate him from the society of the faithful; but now seeing the Holy Spirit by His grace hath so prevailed, that he is returned and professeth repentance toward God, and faith toward our Lord Jesus Christ, that it may please God by His Spirit and grace to make him a sincere and unfeigned penitent, and for the obedience of our Lord Jesus Christ unto death, so to accept of this poor believing and returning sinner, that his former disobedience be never laid to his charge, and that he may increase in all godliness, so that

Satan in the end may be trodden under foot by the power of our Lord Jesus Christ, and God may be glorified, the Church edified, and the penitent saved in the day of the Lord."

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2. Then shall follow the sentence of absolution, in these or the like words: "Whereas thou, N., hast for thy sin been shut out from the communion of the faithful, and hast now manifested thy repentance, wherein the Church resteth satisfied, I, in the name of the Lord Jesus, before this congregation, pronounce and declare thee absolved from the sentence of excommunication formerly denounced against thee, and do receive thee to the communion of the Church, and the free use of all the ordinances of Christ, that thou mayest be partaker of all His benefits to thy eternal salvation."

3. After this sentence of absolution, the minister speaketh to him as to a brother, exhorting him to watch and pray, and comforting him as there shall be cause; the elders embrace, and the whole congregation holdeth communion with him, as one of their own; and the absolution should be intimate in all the churches where the excommunication was intimate.

Report of the Committee on the Form of Process given in to, and approved of by, the Assembly 1855.

This Committee was appointed by the last General Assembly "to consider whether any further steps ought to be taken in the way of explaining the practical operation of the Form of Process as now altered, or consolidating into one Act the overtures converted by this and the previous General Assembly into standing laws of the Church, with instructions to report to next Assembly."

Report of the Committee on the Form of Process.

The Committee, having considered the matter thus remitted to them, are of opinion that no immediate steps should be taken with a view to the consolidation of the overtures into one Act, but that, before the adoption of that course, more time should be allowed for a careful estimate throughout the Church of the state of the law as now settled. On the other hand, the Committee think that, as the changes have been effected, not by one complete enactment, but by several separate Acts passed in successive years, it is desirable to bring under the view of our Church Courts, in a distinct and comprehensive manner, the nature of that order of procedure which results from the recent legislation. Ministers and elders must, of course, interpret that legislation for themselves, and, in case of difference of opinion, the Assembly will, of course, decide between the parties. But were the Assembly to authorise the transmission to the members of Presbyteries of copies of the present report, without, of course, interponing any special sanction to its suggestions, the Committee hope that these suggestions may be useful in affording assistance towards the interpretations of the Acts in the meantime, and towards maturing the judgment of the Church for any more authoritative explanation in the future.

I. In the first place, it is desirable that the Acts should be brought together before the eye, not in the order of their enactment, but in the order of their practical application.

In this view the recent legislation stands as follows:—

1. That, hereafter, in every case of *charge* or *fama* against a Minister of this Church, which is of such a nature as may lead to the necessity of serving the accused party with a libel, no complaint or

1853, Act IV.

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appeal shall have the effect of sisting procedure until a libel shall have been served and found relevant.

1853, Act V.

2. That when a Presbytery are themselves the libellers in a case of *charge* against a Minister of this Church, they shall, before serving the libel, summon the accused party in regular form to attend a meeting of Presbytery, at which it shall be proposed to consider the propriety of serving it, and they shall, at the same time, furnish him with a copy of it. That the meeting shall not be held for at least ten free days after the Minister shall have been summoned and been furnished with a copy of the libel. That, at that meeting, the Presbytery shall carefully consider the question of its relevancy; and that thereafter, if they serve it, they shall serve it as a libel which they have already judged to be relevant.

1852, Act VI.

3. That, in every case in which a Presbytery shall have resolved to order a libel to be served upon a Minister of this Church, the accused Minister shall *ipso facto* cease to exercise the functions of his office, both ministerial and judicial, until the libel shall have been finally disposed of.

1854, Act X.

4. That, hereafter, in every case in which a libel shall have been served against a Minister by a Presbytery as prosecutors, it shall be a competent ground on which the Presbytery, if they see fit, may refer the case to the Superior Courts, that it does not appear expedient, in the circumstances, for the Presbytery to act both as prosecutors and judges: that, in the event of any such reference having been duly brought under the consideration of the General Assembly, it shall be competent to the Assembly, if they see fit, to appoint a Special Commission to hear the evidence on both sides, and give a deliverance as to its effect; and that any Special Commission so appointed shall report their deliverance to the General Assembly, or to its ordinary Commission at one of its stated diets (as the Assembly may direct), who shall pronounce such sentence, or issue such instructions to the Presbytery, as to them may seem just.

1854, Act IX.

5. That, hereafter, in every case in which a libel shall have been served against a minister and found relevant, it shall be a competent ground on which the Presbytery, if they see fit, may refer the case to the Superior Courts, that it does not appear expedient, in the circumstances, for the proof to be taken except in the presence of those who have the power of giving a final deliverance as to its effect: that, in the event of any such reference having been duly brought under the consideration of the General Assembly, it shall be competent to the Assembly, if they see fit, to appoint a Special Commission to hear the evidence on both sides, and give a deliverance as to its effect; and that any Special Commission so appointed shall report their deliverance to the General Assembly, or to its ordinary Commission at one of its stated diets (as the Assembly may direct), who shall pronounce such sentence, or issue such instructions to the Presbytery, as to them may seem just.

1854, Act VIII.

6. That, hereafter, in the event of the General Assembly sustaining an appeal, or a dissent and complaint against the relevancy of a libel against a minister, it shall be competent for the Assembly, if they see fit, to correct the libel, and appoint the case to be tried with the amended libel.

II. It is desirable to point out the bearing of each of these enactments in its order upon the course of proceeding in connection with the old constitutional law of the Church.

1. It has been enacted that, in every case of *charge* or *fama*

against a minister of this Church, which is of such a nature as may lead to the necessity of serving the accused party with a libel, no complaint or appeal shall have the effect of sisting procedure, until a libel shall have been served and found relevant.

The Committee consider that this arrangement applies to every case in which there is any serious allegation against a minister, such as, if established, may scripturally and constitutionally affect his character or standing; that it applies, in every such case, to all competent complaints or appeals which may be taken, up to the point when the process of serving the libel and the act of finding it relevant shall both have been completed, whether the act of finding the libel relevant shall have come before the process of serving it, as now provided for in the case of the Presbytery being themselves the prosecutors, or shall have come after it, according to the old and unchanged rule of procedure in the case of third parties having appeared as prosecutors.

The Committee are further of opinion, that although procedure can no longer be sisted by complaints or appeals during the stages referred to in this enactment, still every complaint or appeal, which would previously have been competent, may now be competently taken against each judgment of the Presbytery, and must go in regular course to the Provincial Synod, if its meeting take place before that of the General Assembly, and directly to the Assembly only when no meeting of the Synod shall intervene.

2. It has been enacted that, when a Presbytery are themselves the libellers, they shall, before serving the libel, summon the accused party in regular form to attend a meeting at which it shall be proposed to consider the propriety of serving it, and shall, at the same time, furnish him with a copy of it. That the meeting shall not be held for at least ten free days after the minister shall have been summoned and been furnished with a copy of the libel; that, at that meeting, the Presbytery shall carefully consider the question of its relevancy; and that thereafter, if they serve it, they shall serve it as a libel which they have already judged to be relevant.

The Committee consider that the expression "accused party" in this enactment must not be understood as constituting the minister a party at the bar of the Presbytery. For, by the supposition made, the Presbytery have not as yet resolved, even as prosecutors, that there is any relevant ground of charge against him. But an allegation has been made to his prejudice, and the Presbytery are about to consider the question as to whether it will be their duty or not to serve him with a libel; and in order that he may suffer no injustice, the Presbytery must specially summon him to attend their meeting in his place as a member, and must intimate to him definitely the form which the accusation, if they shall resolve to take it up and charge him with it, will assume in their hands.

The Committee consider that, if the Presbytery before serving the libel shall make any change upon the form in which it appeared in the copy with which the minister had been previously furnished, they must, before serving it, again furnish him with a copy, and again summon him in the terms of this enactment.

The Committee are of opinion that the expression *regular form*, employed in the first clause of this enactment, indicates that the Presbytery cannot competently proceed in absence of the minister, without repeating the process of summoning three times, according to the old practice.

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The Committee further consider that the minister, or any other member of Court, may take a dissent and complaint against any judgment of the Presbytery, by which the libel is found in any respect relevant, or the reverse, whether that judgment be simply a resolution to serve or not to serve the libel, or a particular deliverance on any particular point raised. The Committee think that any such dissent or complaint must go to the Provincial Synod, if it meet before the General Assembly, but that it will not sist procedure until the Presbytery shall have evidence before them that the libel has been duly served.

3. It has been enacted that, when a Presbytery have resolved to order a libel to be served, the accused minister shall *ipso facto* cease to exercise his functions until the libel shall have been disposed of.

The Committee have to observe here, in the first place, that this rule has no application while the Presbytery are only considering the relevancy of a libel, which they are proposing themselves to serve as prosecutors, and before they have actually resolved to serve it. This observation illustrates the importance of what has been said, in relation to the previously considered enactment, as to the minister being not yet a party at the bar.

But the Committee have to observe, secondly, that the expression *resolved to order* in this enactment, shows that the minister becomes a party at the moment when the resolution to have the libel served has been come to. The Presbytery, therefore, must not wait, before acting upon the rule here laid down, until they shall have proof of the libel having been actually served, but must, in the face of all dissents and complaints, proceed at once to take charge of the minister's pulpit and congregation, according to the old law in cases of suspension.

4. It has been enacted that, after a libel shall have been served by a Presbytery, it shall be a competent ground on which the Presbytery may refer the case to the Superior Courts, that it does not appear expedient, in the circumstances, for the Presbytery to act both as prosecutors and judges.

The Committee consider that the Presbytery cannot competently adopt this procedure, until, at a meeting subsequent to that at which the resolution to order the libel to be served has been come to, they shall have competent evidence before them that the libel has been actually served in due form according to the old law.

The Committee consider that the expression *Superior Courts* implies that the reference is to be made to the next Superior Court, as the case may be; the Synod, if it meet before the General Assembly, and the Assembly itself, if there be no previous meeting of Synod, and the Commission of Assembly only in the event of the Assembly having specially empowered that body to receive complaints or appeals in the particular case. The Committee think that if the reference go to the Synod, the Synod may take one of three courses. It may either differ from the Presbytery and dismiss the reference, requiring the Presbytery to try the case themselves; or, secondly, it may sustain the reference, and resolve itself to try the case; or, thirdly, it may sustain the reference, and refer the case on to the General Assembly.

As it is very desirable that the words of the Presbytery's deliverance in such a reference should be clear and exact, the Committee would suggest the following form:—

"It having been duly certified to the Presbytery that the libel

against Mr A. B. has now been served in due form, and the matter being now ripe for further procedure, the Presbytery, after careful consideration, find that it does not appear expedient in the circumstances for them to act both as prosecutors and judges, and therefore, they hereby refer the case to the Free Provincial Synod of at their meeting in next (or, as the case may be, to the General Assembly, etc.)."

The Committee are of opinion, that although a complaint or appeal would at this stage prevent the Presbytery from taking any other step, it should not be considered as preventing them from making the reference allowed by this enactment.

5. It has been enacted that a similar reference may be made, on the ground of its not appearing expedient for the proof to be taken, except in the presence of those who have the power of giving a final deliverance as to its effect.

The Committee would observe, first of all, as to this enactment, that it applies, not only to the case in which the Presbytery are prosecutors, but also to that in which other parties are prosecutors, and that it takes for granted that in this last case the libel must be served before it has been found relevant, and the relevancy judged of according to the old law.

The Committee would observe, secondly, that the form of reference for the Presbytery ought to be varied as follows, in the case in which the Presbytery are not the prosecutors :—

"The libel having now been found relevant, and the matter being now ripe for further procedure, the Presbytery, after careful consideration, find that it does not appear expedient, in the circumstances, for the proof to be taken, except in the presence of those who have the power of giving a final deliverance as to its effect, and, therefore, the Presbytery hereby refer the case to the Free Provincial Synod of at their meeting in next (or, as the case may be, to the General Assembly, etc.)."

The Committee would observe, thirdly, that this enactment furnishes a ground on which the Synod may also refer the case to the Assembly. The Synod, however, may do so on other competent grounds.

The remaining parts of these two last-mentioned enactments refer to the General Assembly's own procedure, and the Committee think it unnecessary to make any remark upon them.

6. The same remark applies to the last enactment in order of application, by which it has been made competent for the Assembly to correct a libel, and to appoint the case to be tried with the amended libel.

It appears to the Committee that, for the present, they have sufficiently discharged their duty, in laying these suggestions before the Assembly.

Act XIV. 1860.—Act anent Revisal of Libels when a Presbytery are the Libellers.

Revisal of Libels when a Presbytery are the Libellers.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain :—

That when it is proposed in a Presbytery that they should themselves be the libellers, in a case of charge against a minister of this Church, they shall not adopt any form of libel without having first submitted it for revision to the Legal Adviser of this Church.

APPENDIX X. *Cases of Libel.*

Act XV. 1860.—Act anent Revisal of Libels when any Party or Parties, other than the Presbytery, are Libellers.

Revisal of Libels when any parties other than the Presbytery are Libellers.

The General Assembly, with consent of a majority of Presbyteries, enact and ordain :—

That when a libel in case of charge against a minister of this Church shall be brought before a Presbytery by any party or parties, other than the Presbytery, the Presbytery shall not proceed to serve the said libel, or to consider its relevancy, until they have ascertained that the form of it has been submitted for revision to the Legal Adviser of this Church.

Act II. 1883.—Act anent Mode of Taking Evidence in Church Courts.

Mode of taking Evidence.

The General Assembly, with consent of a majority of Presbyteries, hereby declare and enact,—That in all cases in which it is necessary to lead evidence before any Court or Special Commission of this Church, it shall be lawful for such Court or Special Commission to appoint, at the joint expense of the parties, a skilled Shorthand Writer to take down such evidence (who shall promise to make a faithful record); that he shall read over to each witness, at the close of his evidence, what he has taken down, that said witness may say whether he admits it to be correct, and that afterwards he shall write out in full the evidence so taken down by him, and certify the same as correct; and the Moderator or Chairman shall also attest the same; and the record of evidence thus attested shall be held as valid, and be proceeded upon as the evidence in the case; and further, it shall not be competent, prior to the closing of the proof, to record reasons for any complaint or complaints against any decision of the Court or Special Commission on the admissibility of evidence, but that, when the proof has been declared closed, such reasons may be recorded.

Questions of Evidence, etc., that may be raised in the consideration of a Libel.

Questions of Evidence in a Libel.

It is impossible here to enter at any length into the law of evidence, but the following remarks may be of use in practice :—

1. Who are competent witnesses?

Many disqualifications formerly sustained are now abolished. The remaining may be classed under three heads.

(1.) *Mental Incapacity.*—Insane persons and idiots cannot of course be received. Children under twelve are not examined on oath, but they are admissible if they appear to be sensible of the duty of telling the truth, and even when so young as to be incapable of this, they are sometimes admitted, but must be corroborated by adults.

(2.) *Relationship of Husband and Wife.*—In criminal prosecutions neither spouse can give evidence for or against the other, unless he or she is the injured party.[1] All other relations are competent witnesses for or against each other. The effect of natural affection or bias is left for remark on credibility.

(3.) *Undue Bias—such as having been bribed, or tutored as to what evidence to give, or cherishing malice and ill-will against the accused.*—These are still nominally grounds of disqualification, but in fact are

[1] The law of Scotland in this matter has now been changed.

rarely if ever sustained as objections to competency. Very strong grounds of fact are required, otherwise a witness, favourable to the accused, might disqualify himself from giving evidence against him by admissions falling under these heads.

Agency is not now a disqualification, but the law-agent, or person acting as such, cannot be compelled to disclose what was committed to him in that character, unless he is adduced as a witness by his own client. This does not extend to the case of a confidential friend, or even spiritual adviser.

The character of a witness, however bad, does not disqualify; it affects his credibility only.[1]

There is often a peculiar delicacy in the position of a member of presbytery on this head. Where the libel is at the instance of the Presbytery, they unite the functions of prosecutors and judges, unless they adopt the course allowed by Act X., Assembly 1854. But usually no member of Presbytery will be admissible as a witness unless he carefully abstains from all participation in preparing or judging of the cause. When, on the other hand, the libel is at the instance of a private party, the members of Presbytery are bound to confine themselves strictly to the judicial character, and assistance given by them to the preparation of the cause will disqualify them for taking part in the deliberations.

Leading questions (*i.e.* asking a witness "Did he do or say so and so?" in place of "What did he do or say?") are only allowed in the introductory part of the examination in chief; but when the witness shows hostility, reluctance, or forgetfulness, it is permitted to recall circumstances by leading questions; and such questions are always allowed in cross-examination.

A witness ought not to be in Court while previous witnesses are examined; but it is not now imperative to reject a witness on the ground of his having been so in Court. The Court may judge whether, in the circumstances, injustice could be done by his examination being allowed.

2. What is competent evidence?[2]

The questions put must be more or less pertinent to the cause. A witness must depone not only to his knowledge, but to his cause of knowledge. He must likewise speak to what he himself knows, not to what he has heard. It must be particularly remarked, that it is not competent for a witness to tell what a third party may have told him. This is hearsay—not evidence—and such questions ought never to be permitted to be asked or answered, with the following exceptions. It is competent to ask a witness to speak to what he has heard said by a party deceased—or by the accused—or by any one in the presence of the accused—or to what was said at the time the act charged took place, if such observations formed part of the *res gesta*—or to a common rumour or *fama* in the neighbourhood.

A witness examined as to facts cannot be competently asked his opinion generally; but he may be asked what belief or impression was produced at the time by the facts sworn to. But persons of skill may be examined as to their opinion on the facts, or on incidental points of the cause. Engineers, medical men, etc., are admissible in this capacity.

[1] The paragraph which follows is mainly borrowed from the Book of Styles, published by the Church Law Society in 1838.

[2] Borrowed from the Book of Styles.

APPENDIX X.

Cases of Libel.

Questions of Evidence in a Libel.

A witness may look at writings of his own made at the time, to refresh his memory, but not at those of another.

Although no witness is bound to criminate himself, it is competent to ask the witness questions having criminatory tendency, he being warned by the Court that he is not bound to answer them. If the witness declines to answer, the circumstance is, of course, taken as an element of proof.

The depositions or solemn declarations of witnesses are taken down in writing, and signed by them and the Moderator and Clerk.

It sometimes happens that the depositions or solemn declarations of aged persons, or parties about to leave the country, are taken out of Court, and produced in evidence. It seems impossible to fix any general rule as to the admissibility of such depositions or declarations. If, however, the parties so examined shall be in a situation, on the day of trial, to be adduced as witnesses, the deposition or declaration will, of course, go for nothing.

The examination for the prosecution being concluded, the accused is entitled to cross-examination, and when the whole proceedings for the prosecution are closed, he is entitled to call and examine witnesses on his own behalf.

The Presbytery, or any authorised Commission trying the case, must then declare the proof concluded, and proceed to consider its import.

APPENDIX V.

FORMS AND STYLES.[1]

1. Ordinary Matters.

1. Forms for Kirk-Sessions.

(1.) *Specimen Minute of Kirk-Session, in which for brevity's sake, many particulars are inserted to show how they ought to be dealt with and expressed, though they might never all occur in the same Minute.*

Kirk-Session Minutes.

At the day of 19 : The Kirk-Session of the Free Church Congregation at met, according to intimation from the pulpit, and was constituted, —Sederunt, the Rev. , Moderator; Messrs. and , Ruling Elders.

The Minute of last meeting was read and approved of.

Induction of Minister.

The Kirk-Session hereby recognise and record the fact that, on the day of the Rev. was ordained and inducted as Pastor of their Congregation, and has now for the first time taken his seat as Moderator of Session.

Appointment of Communion.

The Kirk-Session resolve that the ordinance of the Lord's Supper shall be observed in this Church on Sabbath, the day of next, and that a meeting of Session for the revisal of the Communion-roll, preparatory thereto, shall be held in , on the day of , at o'clock.

Elders' Districts.

The Session took into consideration the division of the Congregation into districts for the Elders, and resolve that it shall, in the meantime, stand as follows :—

Motion agreed to.

The Session resumed consideration of the proposal made by Mr at the last meeting. It was moved, seconded, and unanimously agreed to, That

Election of Representative Elder.

The Session proceeded to elect a Ruling Elder to represent them in the Presbytery and Synod during the current year, in place of Mr whose term of representation had expired after the meeting of Synod on the day of .

[1] *N.B.*—These are only specimens of the way in which Minutes may be drawn up. Nothing in these forms constitutes a rule for the procedure of any Court.

APPENDIX XI. 1.

Ordinary Forms and Styles.

It was moved, seconded, and unanimously agreed to, That Mr be elected for the current year. Accordingly, the Session elected Mr , one of their number, and *bona fide* an acting Elder of their Congregation, to represent them in the Presbytery of and Synod of during the current year.

Elders visiting after Vacancy.

The attention of the Session was called to the importance of the Elders on this occasion visiting their respective districts in good time, previously to the Communion, in order that the number of the intending Communicants may be as far as possible ascertained, after the long protracted vacancy, and that the roll may be carefully adjusted both before and after the Communion.

Elders and Deacons ceasing to be in Office.

The Session find that Mr , Ruling Elder, and Mr , Deacon, have withdrawn from all meetings of Session and Deacons' Court for more than twelve months, without explanation. The Session, accordingly, find that they have both ceased to be members of the Deacons' Court, and that Mr has ceased to be a member of the Kirk-Session of the Congregation of .

Appointment of Hour of Worship.

The Session resolve that Public Worship shall commence on the Communion Sabbath, at o'clock A.M., and on the Fast-day at o'clock A.M.

Closed with prayer.

(2.) *Another Specimen Minute.*

At the day of 19 : The Kirk-Session met, through personal citation by the Moderator, and was constituted,—Sederunt, the Rev. , Moderator; Messrs. and , Ruling Elders.

The Minute of last meeting was read and approved of.

Vacancy in Church Officership.

The Moderator brought under the Session's notice the vacancy in the Church Officership, occasioned by the resignation of .

The Session being cognizant of the election to the Beadleship by the Deacons' Court of Mr , hereby appoint him to be Church Officer also.

Mr was called in and his appointment was intimated to him. He promised to discharge the duties faithfully and confidentially, and was thereupon admitted to the office.

Election of Elders.

The Moderator represented the importance of having a new election of Ruling Elders. The Session having taken into consideration the question as to having an addition made to the number of Elders, resolved to take steps with the view of accomplishing this end, and accordingly requested the Moderator to make an intimation on Sabbath next, and (should the Session desire it) on the two following Sabbath-days, at the close of Public Worship, to the effect that the election will take place in the following manner:—[*Then let the manner adopted by the Session be stated, whether by the giving in of lists, or by voting at the meeting, or otherwise*].

It was agreed that the number to be elected shall be , and that the Moderator shall intimate the number. It was also agreed that the Moderator should address the people on their duties in this matter, and take occasion to point out the qualifications of Elder.

The Session resolved to meet in the Church on the day of , for the purpose [*either of*

opening lists, or, along with the Congregation, for an election otherwise].

Thereafter the Session took into consideration the subject of

It was moved and seconded, That

Motion carried on Division.

It was also moved and seconded, That

After conversation it was agreed to take the vote. The votes were marked, and it appeared that members had voted for the first Motion, and for the second, so that the motion was carried by a majority of Thereupon the Kirk-Session, in terms of that Motion, resolve that

From this judgment Mr. entered his dissent, and Mr adhered to the dissent.

Simple Dissent entered.

Closed with prayer.

(3.) *Third Specimen Minute.*

At the day of 19 :

The Kirk-Session met, and was constituted, —Sederunt, the Rev. , Moderator; Messrs and , Ruling Elders.

The Minute of last meeting was read and approved of.

Mr gave in Reasons of Dissent from the judgment of the Session at last meeting on the subject of , signed by himself and Mr They were ordered to be kept *in retentis*.

Reasons of Simple Dissent.

The Moderator intimated that he had complied with the request of the Session recorded in the Minute now read. [Here let it be stated either that the lists were opened and read and the votes marked, etc., in presence of the Congregation (*or publicly or privately according to resolution*), or that the Session met with the Congregation and proceeded to an election, when motions were made, etc., and the following were elected (*either unanimously or by a majority, as the case may be*), in the following order, the person named first having the greatest number of votes.]

Election of Elders.

The Blessing having been pronounced and the Congregation [*or public meeting*] having been dismissed, the Session continued their meeting alone.

The Session being alone, proceeded to judge of the qualifications for the Eldership of the persons named. After deliberation, the Session find that the following persons have been elected by the Congregation and are duly qualified, viz.,—

It was agreed that the Moderator should ascertain the willingness of the above named to accept office.

It was reported by the Moderator that Mr , a member of this Kirk-Session, had been elected by the Presbytery of as one of their representatives to the General Assembly, and that he required a certificate from this Kirk-Session, in terms prescribed by the Act of Assembly, to be signed both by the Moderator and Clerk. The Session appoint a certificate to be signed

Certificate to Member of Assembly.

APPENDIX XI. 1.

Ordinary Forms and Styles.

by the Moderator and Clerk, and duly transmitted, in the following terms :—

"At the day of 19 :

"Which day the Kirk-Session of the Free Church Congregation of being met and constituted,—Sederunt, the Rev. , Moderator ; and , Elders,—the said Session did, and hereby do, certify and declare, that , Ruling Elder, and member of said Session, is *bona fide* an acting Elder of their Congregation, and that he has signed the formula.

Moderator.
Clerk."

It was moved and seconded, That

It was also moved and seconded, That

Motion carried, and complained of.

The Session resolve

From which judgment Mr dissented, in the name of himself and all who may adhere to him, and protested for leave to complain to the Presbytery of , promising to give in Reasons in due time, and took instruments in the Clerk's hands and craved extracts, which were allowed.

The following members were appointed to defend the judgment of the Session at the bar of the Presbytery, viz.,—

Closed with prayer.

(4.) *Fourth Specimen Minute.*

At the day of 19 :

The Kirk-Session met, and was constituted,—Sederunt, the Rev. Moderator ; Messrs and Ruling Elders.

The Minute of last meeting was read and approved of.

Reasons of Complaint.

The Clerk reported that Reasons of Dissent and Complaint by Mr and Mr had been lodged with him in due time.

The Moderator reported that he had dealt with the persons elected and found qualified for the Eldership in their Congregation as to their acceptance of the office, and that the following persons had agreed to accept, viz.,—Mr

Appointment of Elders' Ordination.

The Session appoint the ordination of Messrs

and the admission of Mr , already ordained to the Eldership in another Congregation, to take place in presence of the Congregation, on Sabbath the , after Public Worship in the , and they direct an edict to this effect to be served in common form on Sabbath, the day of , giving notice to the people that if any of them have any objections to state to the life or doctrine of any of the foresaid persons, they will have an opportunity of stating the same at a meeting of Session to be held for that purpose in on the

day of at o'clock, with certification that unless such objections be substantiated at said meeting, the ordination and admission will be carried out.

Closed with prayer.

(5.) *Form of Edict for Ordination and Admission of Elders to be read from the Pulpit.*

Edict for Ordination of Elders.

At the day of 19 :

The Kirk-Session of the Free Church Congregation of having appointed an election of Elders to take place on the day of , and the Congregation, after due intimation, having made choice of Mr and Mr , etc., and the Session having judged the aforesaid duly qualified for the office, and the said Mr etc., having intimated their [*or* his] acceptance of the office, the Kirk-Session did, on the day of , appoint the ordination and admission to the office of the Eldership of the said Mr [and, *if any persons or person chosen have been already ordained*, the induction of the said Mr], etc., to take place on Sabbath, the day of . It is accordingly hereby intimated, that if any member of the Congregation have objections to state to the life or doctrine of the said Mr etc., he will have an oppoptunity of doing so at a meeting of Session to be held in on the day of

(6.) *Another Specimen Minute.*

At the day of 19 :

The Kirk-Session of met and was constituted,—Sederunt, the Rev. , Moderator; Messrs and , Elders.

The Minute of last meeting was read and approved of.

Meeting to receive Objections Life or Doctrine.

The Moderator reported that he had made edictal intimation as to the ordination and admission of Elders according to the request of the Session. The Session called the Church Officer and instructed him to intimate at the Church door, that the Session had met to give an opportunity for the statement of objections in terms of the Edict. Thereafter, the Officer returned from the door and intimated that no objector had appeared. The Session, accordingly, resolved to proceed with the ordination and admission according to their last Minute. [N.B.—*If there should be any objections to life or doctrine brought forward, the Session must either find that they are not substantiated to the satisfaction of the Session, and resolve to proceed with the ordination and admission; or that they are substantiated, and resolve to take the party or parties on dicipline.*]

Closed with prayer.

(7.) *A Sixth Specimen Minute.*

At and within the Free Church the Kirk-Session of met with the Congregation, according to their Resolution of date , and Edictal Intimation made on Sabbath, the day of

APPENDIX XI. 1.

Ordinary Forms and Styles.

Ordination and Admission of Elders.

After sermon the Moderator made the following intimation:—"An election of persons to the office of the Eldership having taken place on the day of , and the persons now to be named having been found duly qualified, and having agreed to accept the office of the Eldership, and no objection to the life or doctrine of any of them having been offered (*or* substantiated) after edictal intimation that, in the absence of such objections substantiated, the ordination and admission of these persons would be this day proceeded with, the Kirk-session are prepared to ordain and admit Mr and Mr , and to admit to the same office Mr , who has been previously ordained an Elder."

The Moderator called upon all those persons, when they all appeared and stood up. The Moderator put to Mr and Mr , etc. etc., the questions appointed to be put to Elders-elect before their admission to office, to which they all gave satisfactory answers. He also reminded Mr that he had formerly answered these questions at his ordination as an Elder, and asked him whether he adhered to his former answers, to which question he replied in the affirmative. Thereafter, all the Elders-elect signed the Formula required by Act XII. Assembly 1846, in presence of the Congregation.

The Moderator then, in name of the Session, did admit Mr , already an ordained Elder of the Free Church of Scotland, to the said office in this Congregation; and thereafter, with prayer to God, he did solemnly set apart Mr , Mr , and Mr , etc. etc., to the office of Eldership, and did admit them to the exercise of the same in this Congregation, and to all the rights and privileges belonging thereto. In token thereof, all the persons now admitted received the right hand of fellowship from the Elders and Deacons present. The Moderator addressed the newly admitted Elders and the Congregation regarding their respective duties.

Public worship having been concluded, and the Kirk-Session continuing their meeting, the names of these Elders were added to the roll of the Session, and the Session-Clerk was instructed to intimate the circumstance to the Clerk of the Deacons' Court for communication.

Young Communicants.

The Moderator reported that the following persons had applied to be admitted as Communicants for the first time, and that he was satisfied with their knowledge and professions, viz.,—

The Kirk-Session having no ground for questioning the good character of any of these persons (and one or more of the Elders having confirmed the Moderator's recommendation in one or more of the cases—*state this when it is so*), the Kirk-Session hereby admit them to communion with this Congregation.

Admission on Certificates.

The following persons were admitted on production of certificates, viz.,—

J. C. from the Free Church of . T. P. from , etc. etc.

The Kirk-Session further revised the Communion Roll with a view to the Communion on Sabbath, the day of , and purged it of the names of all persons who had ceased to belong to the Congregation. (The Session also arranged

the Communion cards, and instructed the Elders as to the distribution of them in their districts. This, where it applies.)

A. M., residing at , applied for admission to communion, though not on the roll, and not recommended by the Minister. After conversation and examination, the objections to his admission were stated. After deliberation, the Kirk-Session sustain the objections, and decline to admit A. M. to the communion. Against which judgment A. M. protested and appealed to the Presbytery of , promising to lodge reasons in due time, took instruments in the Clerk's hands, and craved extracts, which were allowed. The Moderator and Mr were instructed to defend the judgment of the Session at the bar of the Presbytery.

Application for Admission refused.

The Moderator mentioned that T. D. had applied for the baptism of his child, though not yet on the Communion Roll, intimating, at the same time, his willingness to converse with the Minister as a young communicant, in order that he may be admitted on the roll previously to the next observance of the ordinance, after he has been found qualified. The Session agree that the child of T. D. may be baptized as soon as the Moderator shall be satisfied that he is qualified for admission to communion, and that he intends to communicate.

Admission to Baptism before Communion.

A letter of resignation of his office as an Elder (*or* Deacon) of this Congregation was laid on the table from Mr

The Session appoint Mr and Mr , with to confer with Mr as to the reasons for his proposed resignation, and to report.

Resignation of Elder or Deacon.

Closed with prayer.

(8.) *A Seventh Specimen Minute.*

At , etc. etc., the day of 19 :

The Session met, and was constituted immediately after worship for the distribution of tokens. They were distributed to the applicants present (*here mention the rule of distribution adopted by the particular Session*). The Session further instructed the Elders as to the distribution of tokens to applicants not now present.

Tokens.

Mr reported for himself, and that, as instructed by the Session, they had conferred with Mr as to the reasons of his proposed resignation of his office as an Elder (*or* Deacon), and stated the result of conference. The Session, being satisfied that there is nothing affecting the character of Mr in the causes of his resignation, feel themselves compelled to accept of it with regret, appoint his name to be removed from the Session Roll, and intimation of the circumstance to be made to the Deacons' Court (*or* the Session find that the reasons for the tender of resignation are not satisfactory, and render it necessary for them to take Mr on discipline. They appoint Mr , Mr and Mr , to confer again with Mr upon the subject, intimating to him this finding).

Closed with prayer.

(9.) *An Eighth Specimen Minute.*

At , the day of 19 :

The Minutes of previous meeting of dates were read and approved of.

APPENDIX XI. 1.

Ordinary Forms and Styles.

Revisal of Roll.

Election of Deacons.

The Communion Roll was revised with reference to the recent Communion, and ordered to be attested by the Moderator and Clerk as now containing names, and to be transmitted to the Presbytery.

The Session having taken into consideration the importance of having an addition made to the number of Deacons (*here take in the Form as to Elders—mutatis mutandis*).

Closed with prayer.

(10.) *Further Minutes, etc., as to Election and Admission of Deacons, etc., the same as in the case of Elders,* mutatis mutandis, *with those in the case of Elders.*

(11.) *Specimen Minute in referring an ordinary case to the Presbytery.*

Reference to Presbytery.

The Session, regarding the question involved in this matter as one of considerable difficulty, hereby refer the whole case to the Presbytery of for advice, and, at the same time, intimate to the parties that they are hereby summoned *apud acta* to the bar of that Presbytery at their next ordinary meeting.

(12.) *Specimen Forms of Petitions, in which the Kirk-Session are specially interested.*

Petition to the Kirk-Session with reference to Congregational matters.

Petition to Kirk-Session.

To the Moderator and other Members of the Kirk-Session of , The humble Petition of the undersigned showeth,—

That, etc. etc.

Your Petitioners, therefore, ask you to take such steps as you can consistently with the laws of the Church for, etc. etc.

[*Then follow signatures with designations, including Church Membership, etc.*]

Petition by the Kirk-Session or others to the Presbytery with reference to the conduct of the Minister.

Petition by Kirk-Session.

To the Moderator and Members of the Free Presbytery of , The humble Petition of the undersigned showeth,—

That we are painfully constrained by a sense of duty to represent that the Rev. , our Minister, has acted in a manner recently which, in our view, calls for your notice and interposition, inasmuch as

1. The
2. Etc. etc.
3. Etc. etc.

It appears to us that we have no remedy, except in petitioning your Reverend body. We therefore ask you to take the matter into your consideration, and to make such inquiry as to your wisdom may seem meet, whether by presbyterial visitation or otherwise.

[*Then follow signatures and designations, etc.*]

Petition against arbitrary action of the Kirk-Session.

Petition against Session.

To the Moderator and other Members of the Free Presbytery of , The humble Petition of the undersigned showeth,—

That the Kirk-Session of did, and thereby deprived your Petitioner of the usual remedy by appeal. Your Petitioners, therefore, crave the interposition of your Reverend Court to rectify the injustice that has been done.

[*Then follow signatures and designations.*]

(13.) *Commission to Ruling Elder, entitling him to sit in the Presbytery and Synod.*

Commission to Elder to Synod and Presbytery.

This Commission should be a simple Extract of Minute.

(For Form of Minute of Election of a representative Elder by a Session in a newly sanctioned charge according to Act I. 1875, see page 235).

(14.) *Form of Certificate for a Ruling Elder returned as Commissioner to the General Assembly.*

Certificate for Elder to General Assembly.

At the day of , one thousand nine hundred and years; which day the Kirk-Session of the Free Church Congregation of being met and constituted, —Sederunt, the Rev. , Moderator, and , Elders,— the said Session did, and hereby do, certify and declare, that (*name and designation*), Ruling Elder and Member of said Session, is *bona fide* an Acting Elder of their Congregation, and that he has signed the Formula.

Moderator.
Clerk.

(15.) *Form of Minute of Election of a Representative Elder by a Session in a newly sanctioned charge according to Act* I. *Assembly* 1875.

Election of Elder in new Charge.

At the day of 19 the Kirk-Session of the recently sanctioned Free Church Charge of having met and been constituted:

Inter alia,—The Kirk-Session, finding that the induction of their Minister, and the first constitution of their Kirk-Session have taken place more than two months after the last meeting of the Free Synod of , and that, consequently, according to Act I. Assembly 1875, they are entitled and called upon, within one month from the date of said induction and first constitution, to elect in due form a ruling elder, one of their number, to represent them in the Presbytery and Synod during the current year: The Session accordingly hereby elect Mr , one of their number, and *bona fide* an acting elder of their congregation, to represent them in the Presbytery of and Synod of during the current year.

N.B. The Commission should just be an Extract of this Minute by the Clerk.

APPENDIX XI. 1.

Ordinary Forms and Styles.

2. FORMS FOR THE DEACONS' COURT.

(1.) *Specimen Minute containing Variations from the Forms of Session Minutes.*

Deacons' Court Minutes.

At , the day of 19
The Deacons' Court met:
Sederunt,

Elders;
Deacons.

In the absence of the Moderator, Mr G. was unanimously called to the chair. The meeting was then constituted with prayer.

The Minutes of last meeting were read and approved of.

Admission of Elders.

An Extract Minute of Kirk-Session was laid on the table, from which it appeared that Mr and Mr , etc., had been admitted as Elders of this Congregation on the day of

Of Deacons.

Another Extract Minute was read, by which it appeared that Mr and Mr , etc. etc., had been admitted as Deacons of their Congregation on the day of .

The Deacons' Court instruct the Clerk to add the names of these persons to their roll in due order.

Person ceased to hold Office.

Another Extract Minute was read, showing that Mr had ceased to be an elder, and Mr to be a Deacon of their Congregation.

The Court instruct the Clerk to remove the names of these parties from the Roll.

Vacant Beadleship.

The Deacons' Court, taking into consideration the vacancy in the Beadleship of this Congregation, and the following applications for the office, resolve to appoint, and hereby do appoint, Mr to be the Beadle. They resolve that his salary shall be , and appoint the Clerk and Mr to confer with him as to his duties, and to report.

The Court resolve to divide the Congregation anew into districts to be severally assigned to the Deacons, as follows,—District I., Mr T., etc.

Deacons Districts, etc., Appointment of Treasurers.

The Court instruct each of the Deacons to take charge of and hold himself responsible for the arrangements for the ingathering of the Sustentation Fund in his district, and they appoint Mr to be Treasurer for that Fund, Mr remaining Treasurer for the Local Funds, and Mr for the Foreign Missions Fund.

The Deacons' Court, finding that, after deduction of sums requisite for the claims recognised as primary by the Act of Assembly, there remains a surplus in the Local Fund of £ , *s.* *d.*, took into consideration the question how far it was reasonable to supplement (or add to the supplement to) the Minister's stipend, and resolved to grant him the sum of £ , *s.* *d.* out of the surplus.

Supplement to Minister.

Collection for Poor.

The Deacons' Court resolved that a special collection shall be made on Sabbath, the day of , for the relief of poor members of the Congregation at this season.

It was moved and seconded, That

It was also moved and seconded, That

The Motion was carried by a majority of to . From this judgment Mr dissented for the following reasons, viz.,—1., etc., 2., etc, 3., etc. Mr adhered to the Dissent.

Reasons of Dissent.

(N.B.—*When reasons are produced immediately along with the Dissent in any Church Court, they are made part of the Minute.*)

Closed with prayer.

(2.) *Form of Minute of Meeting with Congregation annually.*

Annual Meeting of Congregation.

At , the day of 19 :

The Deacons' Court met with the Congregation, and was constituted, the Moderator in the chair,—Sederunt,

The Clerk read the annual report, with a view to receiving any suggestions from the Congregation. One (or two or no) suggestion was made.

Closed with prayer.

(3.) *Specimen Petition against irregular action of the Deacons' Court.*

Petition against Action of Deacons' Courts.

To

The Moderator and other Members of the Free Presbytery of , The humble Petition of the undersigned showeth,—

That the Deacons' Court of the Free Church Congregation of did, by a Minute of date , resolve as follows: —(*Here take in.*) Your Petitioners regard this Resolution as contrary to Act Assembly , and as *ultra vires* of the Deacons' Court. We therefore crave your interposition to rectify what we consider a violation of constitutional order.

[*Then follow signatures and designations.*]

3. Forms for the Presbytery in Ordinary Business.

(1.) *Forms of Minutes of Presbytery as to the Election, Calling, Translation, and Induction of Ministers.*

Minute resolving to Moderate in a Call.

Minutes of Presbytery, etc. Moderation of Call.

Inter alia,—Compeared Messrs for the Kirk-Session, Messrs for the Deacons' Court, and Messrs for the Congregation of , craving the Presbytery to appoint a day for moderating in a Call to a Minister to that charge. Parties having been heard and Mr , *interim* Moderator of Kirk-Session, having reported that there was every prospect of harmony, the Presbytery unanimously resolved to meet in Church, on Thursday, the day of next, at two o'clock afternoon, to moderate in a Call for filling up the vacancy in that Congregation, and appointed Mr to preach in Church on Sabbath next, and serve an edict to that effect.

APPENDIX XI. 1.

Ordinary Forms and Styles.

Edict for Moderation of a Call.

Intimation by the Presbytery to a Congregation, appointing the Moderation of a Call (made from the Pulpit).

In name and by appointment of the Free Presbytery of , I hereby intimate that, in consequence of an application from this Congregation, the said Presbytery agree to meet within this Church on Thursday, the day of next, at o'clock in the , for the purpose of moderating in a Call for filling up the vacancy in this Congregation [*or, if the name be inserted*, in a Call to Mr to be Minister of this Congregation], the Rev. to preach and preside on the occasion.

Certificate of Intimation having been made.

Church, the day of

The above intimation was duly made by me.

A. W., *Witness.* A. C., *Minister.*

R. S., *Witness.*

Forms of a Call and Concurrence therein.

Forms of Call and Concurrence.

(1.) We, the undersigned Elders, Deacons, and Members of the Free Church Congregation at , desirous of promoting the glory of God and the good of the Church, being destitute of a fixed pastor, and being assured, by good information and our own experience, of the ministerial abilities, piety, literature and prudence, as also of the suitableness to our capacities of the gifts of you, Mr S. T., preacher of the Gospel, have agreed to invite, call, and entreat, like as we, by these presents, do heartily invite, call, and entreat you to undertake the office of Pastor among us, and the charge of our souls; and further, upon your accepting this our Call, promise you all dutiful respect, encouragement, and obedience in the Lord.

In witness whereof, we have subscribed these presents, this day of , one thousand nine hundred and years.

(*Here follow the Signatures.*)

(2.) We, the Elders, Deacons, and Members of the Free Church Congregation of , desirous of promoting the glory of God and the good of the Church, considering the importance of a Colleague being now appointed to the Rev. A. B., our present Pastor, in his ministerial charge; and being satisfied, by good information and our own experience, etc. (*The rest* ut supra.)

Concurrence in Call by Adherents.

We, the Subscribers, ordinary hearers in the Free Church Congregation of , hereby declare our hearty concurrence in the Call addressed by the Members of the said Congregation to Mr S. T. to be their Pastor.

(*Here follow the Signatures.*)

Minute of Meeting to Moderate in a Call to a Minister or Probationer of the Free Church of Scotland.

At Free , the day of Nineteen hundred and , the Free Presbytery of met and was constituted by prayer. Sederunt—

The Minute calling this meeting was read.[1] The Edict was returned attested as having been duly served.

The Moderator went to the pulpit, and preached from . Public Worship being ended, the Moderator intimated that the Presbytery would now proceed to moderate in a Call for filling up the vacancy in this Congregation.

The Clerk read the form of Call. Whereupon it was proposed, and unanimously agreed to, that the name of Mr , Minister at , be inserted in the Call. The name of was then inserted in the Call, which was subscribed by communicants, and by adherents.

It was moved, seconded, and unanimously agreed to, that the Presbytery sustain this Call. The Presbytery then appointed[2] the following to be their Commissioners to prosecute the translation of before the Presbytery of , and any other competent judicatory of the Church, namely, the Moderator, etc.

The Call was left in the hands of the Kirk-Session, to receive additional subscriptions; all such subscriptions to be attested by two members of the Kirk-Session.

The Presbytery then adjourned to meet in the Presbytery Hall on day of month. Whereof public intimation having been made, this sederunt was closed with prayer.

Minute allowing the Translation to proceed.

Translation.

Presbytery House, the day of .—The Free Presbytery of met and was constituted.

Inter alia,—The Presbytery took up the Call to from Free . Compeared as Commissioners from the Free Presbytery of , Messrs as Commissioners from the Kirk-Session of ; as Commissioners from the Deacons' Court, and as Commissioners from the Congregation: and as Commissioners from the Kirk-Session of , and from the Congregation . Mr appeared for himself. The edict was returned duly served and indorsed. Reasons for and against the translation were read. The Commissioners on both sides having been heard, Mr was called upon to state his mind in regard to the Call, when he declared that he could not take upon himself the responsibility of declining it. Parties were withdrawn. The Presbytery now engaged in prayer, Mr leading the devotions.

After deliberation, it was moved by , seconded by , and unanimously agreed to, that translation take place, and that the Call be put into his hands for his acceptance: And this having been done, and he having declared his acceptance of the same, the Presbytery resolved to loose him from his present charge, and translate him to , declaring at the same time that his pastoral relation to Congregation shall subsist till he be actually admitted to the charge aforesaid; and they enjoin him to wait upon

[1] The Minute of the Sustentation Fund Committee intimating that no objections on their part would be offered, it is taken for granted, has been given in at an intermediate meeting. The Presbytery may, if necessary, appoint a Committee to act in their name as to the filling up of the Schedule, and transmitting it to the Sustentation Committee.

[2] If the call is to a Probationer, it is put into his hands for his acceptance.

APPENDIX XI. 1. *Ordinary Forms and Styles.*

the Presbytery of as to the time of his admission, and they request that Reverend Court to give them notice of his Induction when it takes place. Parties were recalled, and this judgment intimated, in which they all acquiesced. for the Presbytery of , and for the Kirk-Session of Free , took instruments in the Clerk's hands, and craved extracts, which were granted.

Minute resolving to proceed to Induction.

Induction.

At , and within the Presbytery Hall, the the Free Presbytery met and was duly constituted by ,—Sederunt,

Inter alia,—There was produced and read, Extract Minute of the Free Presbytery of in the case of the translation of from to The tenor whereof follows:—

The Presbytery resolved to meet in Free on Thursday, the sixth of next, at o'clock P.M., for the induction of Mr as Minister of that Congregation, Mr to preach and preside; and appointed an edict to this effect to be served in that Church on Sabbath the by Mr

Edict previous to Ordination or Induction.

Edict for Ordination or Induction.

The Free Church Presbytery of , having resolved to proceed to the Ordination (or Induction) of Mr S. T., who has been duly called to be Minister of this Congregation (and, *in the case of a Probationer*, whose trials have been sustained), did, and hereby do, issue their edict, giving notice to all persons concerned, and especially to members of this Congregation, that if any of them have anything to object to the life or doctrine of the said Mr S. T., they must substantiate the objections to the satisfaction of the Presbytery at a meeting to be held in , on , the day of , at o'clock, with certification that if no one offer any relevant objection, or unless relevant objections be proven *instanter*, the Presbytery will then forthwith proceed to the ordination and induction (or, *in the case of a Minister*, induction) of the said Mr S. T. to the office of the holy ministry, and admit him to the pastoral charge of this Congregation.

Attested by M. N., *Presby. Clk.*

Certificate of Edict being served.

Church, the day of , 19

The above Edict was this day duly served by me, in the face of the Congregation.

A. W., *Witness.* A. C., *Minister.*
R. S., *Witness.*

Minute of Induction.

Induction.

At Free , the , the Free Presbytery of met, and was constituted with prayer;—Sederunt,

The Minute calling this meeting was read. The Edict was returned duly served. The Officer of Court was instructed to go

to the most patent door of the Church, and make proclamation three times, that if any person or persons had any objections to the life and doctrine of Mr , Minister of the Gospel, they might now repair to the Presbytery, presently met, and substantiate the same. The Officer reported that he had made proclamation, as instructed, and that no one had appeared to object.

The Moderator then went to the pulpit and preached from . Public Worship being ended, the Moderator gave a brief narrative of the proceedings in the Call to , and addressed to him the questions appointed to be put to Ministers on their induction and ordination to a pastoral charge, and he having returned satisfactory answers to the same, and having signed the Formula in presence of the Congregation, the Moderator, in name of the Presbytery, did then induct the said Mr as Minister to the pastoral charge of Congregation, and the brethren gave him the right hand of fellowship. Thereafter Mr was suitably addressed by the Moderator, who also, in appropriate terms, exhorted the Congregation. Public Worship being ended, the meeting was closed with prayer.

Minute when the Presbytery decline to proceed, because of Want of Harmony.

Want of Harmony.

Inter alia,—Compeared Messrs Commissioners from the Congregation of , craving the Presbytery to appoint a day for Moderating in a Call to a Minister for that Congregation. Compeared also Messrs , members of said Congregation, presenting a Memorial signed by thirty-six members of the Congregation craving delay in said matter. The Memorial was read by the Clerk. Parties were heard and removed.

It was moved, seconded, and unanimously agreed to that the Presbytery, *in hoc statu*, decline to proceed to moderate in a Call to a Minister for , and appoint a Committee to confer with the Congregation with the view of restoring harmony among them, and to report. The Committee to consist of

Minute referring Case to General Assembly.

Reference to Assembly.

Inter alia,—Compeared Messrs , representing the majority of the Congregation of , also Messrs , representing the minority of said Congregation.

Dr , interim Moderator of the Kirk-Session and Congregation, made a statement. Parties were heard and removed, —Whereupon it was moved and seconded that the Presbytery, finding that the want of harmony in the Congregation of still continues, resolve to refer, and hereby do refer, the case to the General Assembly, in terms of Act IV. 1859.

Which motion was unanimously adopted.

Parties were called in and judgment intimated.

APPENDIX XI. 1.

(2.) *Minutes as to Overtures, and Returns to Overtures.*

Ordinary Forms and Styles.

Minute of an Overture transmitted by a Presbytery. This must go in the form of an Extract, as follows :—

Overtures and Returns.

At the day of in the year 19 : Which day the Presbytery of E being met and duly constituted :

Inter alia,—

Overture from Presbytery.

The Presbytery agreed to transmit the following overture to the ensuing General Assembly :—It is overtured by the Free Presbytery of to the ensuing General Assembly of the Free Church of Scotland, that they, etc. etc. etc. ; or that they do otherwise for this object what to their wisdom may seem best.

Extracted from the Records of the Presbytery of E by A. B., *Presbytery Clerk.*

Minute of a Return to an Overture from the General Assembly under the Barrier Act.

This must also be sent as an Extract, each Return on a Separate sheet of paper, as follows :—

Return under Barrier Act.

At the day of in the year 19 : Which day the Presbytery of E being met and duly constituted :

Inter alia,—

The Presbytery took into consideration the Overture transmitted by the last General Assembly in the following terms :—(*Here take them in*) ; and the Presbytery hereby approve simpliciter of the same (*or* the Presbytery disapprove of the same).

Extracted from the Records of the Presbytery of E by A. B., *Presbytery Clerk.*

Minute of a Return to a Remit from the Assembly not under the Barrier Act.

This should come also in the form of an Extract, e.g.,—

Return not under Barrier Act.

At the day of in the year 19 : Which day the Presbytery of E being met and duly constituted.

Inter alia,—

The Presbytery took into consideration the Remit of last General Assembly on the subject of , and the Presbytery find that, etc. etc. (*whatever their opinion may be, and however qualified*).

Extracted, etc., by

Presbytery Clerk.

(3.) *Minutes for Representation in the General Assembly.*

Minutes of Presbytery, forming Commission to Representatives in General Assembly.

Commission for Representatives to Assembly.

At the day of 19 years :—The which day the Free Church Presbytery of being convened

betwixt the hours of eleven o'clock in the forenoon and eight o'clock in the evening, in order to elect their representatives to the ensuing Assembly, pursuant to a Resolution entered in their Minutes on the day of One thousand nine hundred and , did, and hereby do, nominate and appoint , Minister at , and , Minister at , and , Minister at , with , Ruling Elders, their Commissioners to the next General Assembly of the Free Church of Scotland, indicted to meet at Edinburgh the day of May next to come, or when and where it shall happen to sit, willing them to repair thereto, and to attend all the diets of the same, and there to consult, vote, and determine in all matters that come before them, to the glory of God and the good of his Church, according to the Word of God, the Confession of Faith, and agreeable to the constitution of this Church, as they will be answerable; and that they report their diligence therein at their return therefrom. And the said Presbytery do hereby testify and declare, That all the ministers above named have signed the Formula. And further, That the said Elders are of unblemished character, circumspect in their walk, regular in giving attendance on the ordinances of Divine institution, and behave in other respects agreeable to their office. All which the Presbytery have hereby attested on proper information.

Attested by

Moderator,
Clerk.

After-Election of a Minister.

At the day of 19 years:—The which day the Free Church Presbytery of , being convened betwixt the hours of eleven o'clock in the forenoon and eight o'clock in the evening, and[1] did, and hereby do, nominate and appoint in place, their Commissioner to the next General Assembly of the Free Church of Scotland; and do hereby testify and declare, that signed the Formula; which the Presbytery hereby attest upon proper information. After-Election.

Attested by

Moderator,
Clerk.

After-Election of an Elder.

At the day of 19 years:—The which day the Free Church Presbytery of being convened betwixt the hours of eleven o'clock in the forenoon and eight o'clock in the evening, and[1] did, and hereby do, nominate and appoint in place, their Commissioner to the next General Assembly of the Free Church of Scotland; and do hereby testify and declare, that he is in all respects qualified in the same manner as the Commissioner in whose room he is chosen, which the Presbytery hereby attest upon proper information.

Attested by

Moderator,
Clerk.

[1] Here narrate the occasion of the new election.

APPENDIX XI. I.

Ordinary Forms and Styles.

(4.) *Specimen Minute of Ordinary Meeting.*

Ordinary Meeting.

At the day of 19 : The Free Church Presbytery of met, and was constituted with devotional exercises.—Sederunt, the Rev. , Moderator, Drs , and Messrs , Ministers; with Messrs , Ruling elders.

Minutes.

The Minutes of the last Ordinary meeting of date , and of the *in hunc effectum* meeting of date , and of the *pro rê natâ* meeting of date , were read and approved of.

Commissions to Ruling Elders to represent them in the Presbytery were read from the Sessions of and were sustained. The names were added to the roll.

Election of Moderator.

This being the first meeting of Presbytery after the meeting of the Provincial Synod of , the Presbytery proceeded to elect a Moderator for the current half-year, when Mr , Minister at , was unanimously elected, and took the Chair accordingly.

Deputation.

A deputation appeared at the bar from the Kirk-Session, the Deacons' Court, and Congregation of , viz.,—from the Kirk-Session, Messrs ; from the Deacons' Court, Messrs ; and from the Congregation, Messrs

Colleague and Successor.

Minutes were read from the from which it appeared that the parties presented a unanimous application for the appointment of a Colleague and Successor, to the Rev. , their Minister. A medical certificate was also produced to the effect that the health of Mr was much impaired, and that he was unable to discharge the full duties of the charge. (*Or*, It also appeared that the application was based not on failing health, but on peculiar circumstances, and on the importance of preserving their Pastor's strength at his period of life.)

Mr and Mr were heard for the Session, Mr was heard for the Deacons' Court, and Mr for the Congregation.

Parties were removed. It was moved, seconded, and unanimously agreed to,—

That the Presbytery, looking at all the circumstances, approve of the application, and agree to submit it to the Commission at its meeting in March, and to the General Assembly.

Parties were called in, and this judgment was intimated.

In name of the parties at the bar, Mr acquiesced, took instruments in the Clerk's hands, and craved extracts, which were allowed.

Appeal, etc., from Kirk-Session.

The Presbytery took up a case of Appeal and Dissent and Complaint from the Kirk-Session of against a judgment of that Session of date , by which the Session found

The following documents were laid on the table, viz.,—The judgment of the Session with corresponding Minutes were read, and parties were called, when there appeared for the Appellants Messrs ; for the Dissentient and Complainer, Mr ; and for the Kirk-Session, Mr and Mr The Reasons of Appeal and other papers were read.

Mr was heard in support of the Appeal, Mr in support of the Complaint, and Mr in support of the Judgment. Mr was heard in reply.

Parties were removed. It was moved, seconded, and unanimously agreed to,—

That the Presbytery dismiss the Complaint and Appeal, and affirm the Judgment of the Kirk-Session. (*Or*, That the Presbytery sustain the Complaint and Appeal, and reverse the Judgment of the Session, and instruct, etc.)

Parties were called in and this Judgment intimated, when Mr acquiesced in name of , took instruments, etc. Against the same Judgment Mr , in name of protested, and appealed to the Synod of , promising to lodge Reasons of Appeal in due time, took instruments, etc.

Case of Reference from Session.

The Presbytery took up a case of Reference for advice from the Kirk-Session of

The Minute of Session making the Reference was read, with corresponding documents. There appeared in support of the Reference the Rev. Mr and Mr , who were heard in support of it.

The Presbytery unanimously sustain the Reference.

Thereafter, on the merits of the case, parties were called, when there appeared J. T., maintaining that, etc. etc., and G. D. representing that, etc. etc. Parties were heard, and removed.

The Presbytery find that , and *quoad ultra* remit to the Kirk-Session to deal with the matter according to the rules of the Church.

The Presbytery adjourn to meet *in hunc effectum* in , on the day of , at o'clock; and also in this place on , for ordinary business.

Closed with prayer.

(5.) *Specimen Minutes of* In hunc effectum *and* Pro rê natâ *Meetings and Meetings by appointment of Superior Court.*

Minute of In hunc effectum *Meeting.*

In *hunc effectum* and *Pro rê natâ* Meetings.

At, etc.

The Presbytery of met this day *in hunc effectum*, and was constituted,—Sederunt, etc.

The part of the Minute of last Ordinary Meeting referring to this day's proceedings having been read, the Presbytery (*here follows the Minute of the special business which can alone be transacted*).

Closed with prayer.

Minute of Pro rê natâ *Meeting.*

At, etc.

The Free Church Presbytery of met this day *pro rê natâ*, and was constituted,—Sederunt, etc.

The circular addressed by the Moderator to the members was read, the tenor whereof follows:—(*Here take it in.*) It was moved, seconded, and agreed to,

APPENDIX XI. 1.

Ordinary Forms and Styles.

That the Presbytery approve of the conduct of the Moderator in calling the meeting.

(*Here follows the Minute as to the special business.*)

Closed with prayer.

Meeting by appointment of Superior Court.

At, etc.

The Presbytery, etc. etc., met by special appointment and authority of (the General Assembly or the Provincial Synod of) and was constituted, etc. etc.

Closed with prayer.

ACT VII. 1866.—ACT ANENT A QUORUM OF PRESBYTERY.

Quorum of Presbytery.

The General Assembly appoint the following to be the title and form of Minute in the circumstances referred to in Act II., Assembly 1865, viz. :—

"*Minute of Meeting of two Ministers and one or more Ruling Elders, having valid Commissions which they are prepared to produce.*

"At , the day of , 19 .—Which day and place there convened Mr , minister at , and Mr , minister at , members of the Free Presbytery of , with the view of constituting a meeting of the said Presbytery, in accordance with their minute of adjournment of date There convened also along with these ministers, Mr and Mr , ruling elders, and Mr , Moderator of the Presbytery (or Mr in the absence of the Moderator), having been called to the chair, the meeting was opened with devotional exercises.

"Thereafter, the elders present produced Commissions from the Kirk-Session of and , which, having been examined, were found correct. The ministers and elders present find accordingly, that the Free Presbytery of has now been duly constituted in terms of adjournment, with the following sederunt, viz. :—

"The minutes of last sederunt were then read and approved of."

4. FORMS FOR PROVINCIAL SYNOD IN ORDINARY BUSINESS.

Synod.

(1.) The statements in the text are sufficient to guide Synod Clerks, so far as fixed rules are concerned. And, as the arrangements vary in the practice of different Synods, it is not thought expedient to give specimen Minutes which may not apply to all the Synods.

(2.) *A Specimen Minute is here given as to the appointment of Corresponding Members, which has general application.*

At , the day of 19 years :—The Free Synod of being met and constituted, *inter alia*, did, and hereby do, nominate and appoint , *bona fide* acting Elders within their bounds, their Commissioners to

correspond with the Free Synod of at its ensuing meeting; willing them to repair timeously thereto, to attend all the diets of the same, and there to sit, vote, and determine in all matters that may come before them, to the glory of God and the good of His Church, according to the Word of God, the Confession of Faith, and the other Standards of this Church, as they shall be answerable: and requiring them to report their diligence herein to this Synod at its next meeting.

This Commission in favour of the aforesaid Minister and Elder is by authority of the Free Synod of , executed and subscribed by

Cl. Syn.

2. Forms and Styles in Cases of Discipline.

1. Specimen Minutes for the Kirk-Session in Ordinary Discipline.

(1.) In the case of a woman against whom a scandal has broken out, and who has been ordered by the Session to be summoned to appear before them to answer to a charge of fornication.

Kirk-Session. Charge of Fornication.

(*Place and Date.*)

The Session met, etc. It was reported by the Clerk, that, agreeably to the directions of the Session, A. B. had been duly summoned to appear before them this day; and the said A. B. having been called, appeared, and on the question being put whether she had been guilty of the crime of which she was accused, answered that she had. Being solemnly exhorted by the Moderator to speak the truth, and further interrogated, she declared that C. D., an unmarried man, belonging to this Congregation, had been guilty with her, and was the father of her child. The Session order the said C. D. to be summoned to appear before them the day of , to which meeting the woman was cited *apud acta*. After a suitable admonition she was dismissed for the present.

(2.) It very commonly happens that a woman comes voluntarily forward to make confession, in which case the minute may run thus:—

Voluntarily compeared A. B., residing at , in this parish, confessing that she had been guilty of the sin of fornication. Being solemnly exhorted, etc., *ut supra*.

(3.) In the case in which the man accused by the woman belongs to a different Congregation, his particular residence must be stated, and the conclusion of the Minute may be in these terms:—

The Session instruct their Clerk to write to the Kirk-Session of informing them of the accusation made against the said C. D., and requesting them to cause him to be summoned to appear here on the day of , that he may be confronted with .[1] To this

[1] When the place of the man's residence is very distant, it is common to request the Kirk-Session of his Congregation to call him before them, and to receive his declaration.

The case may also occur of a confession by a woman when the man has disappeared and cannot be found, it being doubtful whether he be alive. In such a case, after the exhaustion of reasonable inquiries, the woman's confession may be acted on.

APPENDIX XI. 2.

Forms and Styles in Discipline.

meeting the woman was cited *apud acta*, and, after a suitable exhortation, she was dismissed for the present.

(4.) Minute of a meeting at which the man is summoned to appear.

Compeared A. B., agreeably to citation at last meeting, and, adhering to her former statements. C. D., having been duly summoned, was called and appeared. The former Minute having been read over to him, he was asked whether he had been guilty with A. B., and was the father of her child. He acknowledged guilt, whereupon both parties, having received a serious admonition, were dismissed for the present.

(5.) If the case be one of adultery, the man, or woman, or both, having been married persons, then the Minute, after stating the acknowledgment of guilt on the part of the man accused, and the admonition of the parties by the Moderator, may run as follows :—

The Session, considering that this is a case of adultery, order their Clerk to transmit extracts to the next meeting of Presbytery, that their advice may be obtained.

The Minute may run in similar terms in the case of a trilapse in fornication, or in any other case in which it is also necessary to obtain the Presbytery's leave to proceed.

(6.) In the event of a denial on the part of the man, the Minute may run thus :—

The question was put to him whether he had been guilty, etc. Whereupon he answered that he was not the father of A. B.'s child, and never had been guilty with her. A. B. was then asked whether she could adduce any evidence of the truth of the charge which she had brought against C. D. She answered that she could, and requested that the following witnesses might be summoned, viz., E. F. and G. (*mention residence*). C. D. also requested that L. M. and N. might be summoned as witnesses in his defence. The Session instruct their Clerk to cause the said persons to be cited to appear before them as witnesses in this case, on the day of next, to which meeting the parties were summoned *apud acta*.

(7.) Form of Minute of meeting, at which the Session proceed to probation.

Compeared A. B. and C. D., according to citation, both adhering to their former statements. The Clerk having reported that all the witnesses in this case had been duly summoned, the Session agreed to proceed with the proof.

E. F. being called, compeared, and having been solemnly sworn, purged of malice and partial counsel, deponed that, etc. (And so on with the other witnesses.)

After the examination of whom, the deliverance of the Session on the evidence must be recorded.

(8.) Supposing that the guilt of the man is not clearly established, but that, in consequence of strong presumption against him, he may express a desire to take the Oath of Purgation, the Minute may run as follows :—

C. D. still persisting in his declaration of innocence, expressed a desire to have the Oath of Purgation administered to

him; whereupon the Session agreed to take the advice of the Reverend the Presbytery of , and ordered the Clerk to transmit extracts.

(9.) Minute, after the Presbytery have allowed the Oath of Purgation—

The Presbytery having granted leave to the Session to administer the Oath of Purgation to C. D., charged by A. B. with the crime of , and C. D. being now present, and having expressed the same desire that this oath should be administered to him, he took it accordingly in presence of the Session; whereupon the said C. D. was declared free from scandal, and restored to the privileges of the Church.

If the Presbytery determine that the oath shall be taken before the Congregation, the Minute must be varied accordingly.

(10.) Supposing that guilt is not proved, that the Oath of Purgation is not offered to be taken, or that it is not seen for edification to administer it, then the Minute may run thus:—

The Session, on consideration of the evidence adduced, do not find the charge against C. D. to be established; and they therefore delay this case until God in His providence shall give further light.

(11.) Supposing a case to be concluded in so far as respects the truth of the charge made by the woman, either by the confession of the man, or the production of sufficient evidence against him; and supposing that one or both parties come forward craving absolution and restoration to Church privileges which the Session agree to grant, then the following may be the Minute:—

Compeared A. B. and C. D., last mentioned in Minute of as having been guilty of the crime of fornication (*or* adultery), craving absolution from scandal, and restoration to the privileges of the Church; and the said A. B. and C. D. having expressed their deep sorrow for the sin of which they had been guilty, and their resolution that henceforth, through Divine grace, they will walk in newness of life, and endeavour to adorn the doctrine of God their Saviour, the Moderator, after a serious rebuke and solemn admonition, and after prayer, did, in name of the Session, absolve them from the scandal of their sin, and restore them to the privileges of the Church.

(12.) If the man accused do not belong to the Church and decline to appear, after all means for inducing him to do so have been exhausted, the Minute may be as follows:—

The Session, having exhausted all means without success to induce C. D. to appear in answer to the charge brought by A. B. against him, agree to accept of her confession as regards her own guilt.

(13.) In cases of antenuptial fornication the Minute may be as follows:—

Compeared A. B. and C. D., confessing that they had been guilty of the sin of antenuptial fornication, and having expressed their penitence, the Moderator, etc.

The above specimens refer to adultery or fornication. It is con-

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sidered unnecessary to give forms of Minutes for all the sins of which a Session ought to take cognizance.

(14.) When a person incurs suspension from Church privileges (lesser excommunication), the same may be thus recorded :—

In consideration, etc., the Session did, and hereby do, suspend the said C. D. from the privileges of the Church.

(15.) In the case of an Elder or Deacon special Minutes are required.

Specimen Minutes when a fama *has arisen or a charge been brought against a Deacon.*

The Kirk-Session taking into consideration the *fama* (*or* the charge, brought under their notice, request the Moderator and Mr to communicate confidentially with Mr regarding the same, so as to ascertain whether further action by the Session may be necessary or not.

The Moderator reported in the case of Mr , Deacon of this Congregation, that he acknowledged the truth of the *fama* against him, that he was deeply grieved on account of his sin, and was ready to make acknowledgment to the Session in due form.

Mr , Deacon of the Congregation, appeared and confessed himself guilty, etc. etc.

In suspending Mr from ordinances, the Kirk-Session find that he is *ipso facto* suspended from the Deaconship *sine die* (*or*, in a case requiring it, The Kirk-Session hereby depose him from the office of Deacon). Intimation of this sentence was appointed to be given to the Deacons' Court.

Specimen Minutes when a fama *or* charge *affecting moral character is brought against a Ruling Elder.*

The Kirk-Session took into consideration a *fama* (*or* charge) which had come under their notice against Mr F. G., a member of their own Court. Mr G. being present, declared that he was ready to give explanations on the subject, but would rather state them privately, in the first instance, to one or two of the members, and he retired accordingly from the meeting. The Session appoint the following members to confer with him in private, and to report, viz ,

Mr reported in the case of Mr that he and Mr had had a conversation with Mr which was not satisfactory. After deliberation, the Session agree that the charge against him be drawn out in the following form, and sent to him with regular citation to attend and answer to it on the day of at o'clock.

The Kirk-Session of the Free Church Congregation at met, according to intimation from the pulpit, and was constituted,—Sederunt :

The Kirk-Session, having fully considered the evidence, find the charge proven ; and, while suspending Mr from privileges, they at the same time resolve to depose him from the office of the Eldership.

They then engaged in prayer, the Moderator conducting the devotions, after which the Moderator, in name of the Session, solemnly pronounced the sentence of deposition.

Intimation of this sentence was appointed to be given to the Deacons' Court.

2. Specimen Minutes for the Kirk-Session in Cases of alleged Heresy.

(1.) The Kirk-Session had before them a complaint signed by members of the congregation, as follows:—(*Here take it in.*) The Session find that the allegations of this document, if well founded, involve the maintenance by T. D., a communicant (or Elder or Deacon) in this congregation, of opinions contradictory to the Confession of Faith and the Word of God, and entirely inconsistent with the professions made through communion in the Free Church of Scotland. The Session accordingly resolve to inquire carefully into the two questions which must be decided in a case of this kind, viz., *First*, Whether such opinions have been maintained by T. D., and how or in what form have they been expressed; and *secondly*, Whether the expression of them by him amounts to a decided contradiction of the truths involved in the profession made by members of the Church (or in the case of an Elder or Deacon, "a decided contradiction of the Confession of Faith"). With the view of determining these questions, the Session appoint the Moderator, Mr and Mr , a committee to make inquiry by conference with T. D., or otherwise, and to report.

(2.) The Kirk-Session, after considering the Report of their Committee in the case of T. D., and taking into account the statements made by him in conference and letters, resolve to cite him to appear at their bar on the day of , to answer to the charge of heresy, inasmuch as, etc.

(3.) The Kirk-Session, having conclusive evidence before them that T. D. has maintained, etc., and that he declines to repudiate these opinions; find that they are entirely contrary both to the Confession of Faith, and to the profession made by communion with this Church; and therefore declare that T. D. is no longer a member of the Free Church of Scotland, and order his name to be removed from the Roll of Communicants in the congregation of . (If an Elder or Deacon, there must be the further minute:—"Further, the Kirk-Session hereby depose him from the office of the Eldership (or Deaconship)" or "declare him to be no longer an Elder (*or* Deacon)" *according to the nature of the case.*)

3. Forms of Citation.

(1.) *Citation of Parties.*

Forms of Citation.

Process may be instituted before Kirk-Sessions either "at the instance of a party complaining, or at least by order of the judicatory." A verbal citation by the beadle is the method usually adopted in summoning the party accused, and, generally speaking, is all that is necessary. But in certain cases it may be proper to give a written citation to the party to appear before the Kirk-Session. And when the process is grounded upon a written petition or information, a copy of these writings should be served. A simple warrant of citation may be issued, bearing the title of the Court to which the party is to be cited, the name of the pursuer (if the action be not instituted by the Court itself), the ground of the action, and the time and place where compearance is to be made. This warrant runs in

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name of the Court, is addressed to its officers, and directs them to summon the party accused. It may be in the following terms :—

Summons.

The Rev. A. B., minister, and remanent members of the Kirk-Session of C. To P. S., our officer. We require you, that, upon sight hereof, ye pass, and lawfully summon D. E. personally, or at his dwelling-house, to compear before the said Session within the Session-house at the day of next to come, in the hour of cause, to answer to the information or libel against him for the sin and scandal of laid to his charge, with certification, etc. Given at the day of by warrant of the said Session.

(Signed) T. G., *Session-Clerk.*

A citation is then given in writing by the officer to the party in the following terms :—

Citation by the Officer.

I, P. S., church-officer of C., by virtue of a warrant from the Kirk-Session, dated the day of , lawfully summon you, D. E., to compear before the said Kirk-Session, within the Session-house at the day of next, at o'clock forenoon, to answer to the information or libel against you for the sin and scandal of laid to your charge, with certification, conform to the principal warrant. This I do upon the day of , between the hours of and , before these witnesses, N. K., and L. M., both residenters in (Signed) P. S., *Officer.*

This citation is either given to the party personally, or left at his dwelling-house, with his wife, children, or servants, or by affixing a copy on the door, if he cannot get access, after knocking audibly several times. The citation must be made in presence of two witnesses, whose names are inserted therein ; and the warrant or summons is returned by the officer, accompanied by an execution subscribed by himself and the witnesses, setting forth the mode in which the service was made. Thus :—

Execution by the Officer.

Upon the day of , by virtue of a warrant from the Kirk-Session of C., dated the day of , I, P. S., church officer, passed, and in name and authority of the said Session, lawfully summoned D. E. to compear before the said Kirk-Session, within the Session-house at , upon the day of , at o'clock forenoon, to answer to the information or libel against him for the sin and scandal of laid to his charge ; with certification, conform to the said warrant in all points. A just copy of citation, to the effect foresaid, I delivered to the said D. E., personally apprehended (or I left for the said D. E , within his dwelling-place at , with his wife, to be given to him, because I could not find himself personally ; or I affixed or left at the most patent door of the dwelling-place of the said D. E., at , because I could neither find himself personally, nor could I get access to the said

dwelling-place, after giving several audible knocks at the most patent door thereof); which copy of citation was signed by me, did bear the date hereof, and the date of the said warrant, and contained the names and designation of N. K. and L. M., both residenters at , witnesses present at the premises, and hereto with me subscribing.

(Signed) P. S., *Officer*.

N. K., *Witness*.
L. M., *Witness*.

A party can be cited only by the Kirk-Session of the congregation to which he belongs, and this may be done upon forty-eight hours' notice. If the person accused belongs to another congregation, the Kirk-Session of that congregation should be desired to direct the party to be cited to answer to the Session before which the process depends.

If the party cited fails to appear, being called at the door by the church-officer, a second, and afterwards a third citation follows; the two first are called dilatory, but the third is peremptory, and contains a certification to the party cited, that the Court will proceed to the cognition of the cause, though he should not appear, or that they will proceed against him as contumacious. Citations *apud acta* are likewise peremptory.

(2.) *Citation of Witnesses.*

Citation of Witnesses.

The citation of witnesses is in the same form as that of parties, bearing the names of the pursuer and defender in the case; and, as in the case of parties, a verbal citation by the beadle is usually found sufficient. On their refusal to obey citation, they may be proceeded against as contumacious. (See Form of Process, chap. ii. § 9.)

The Kirk-Session issues citations to witnesses not only at its own instance, but at that of the pursuer and defender in any case. The forms of diligence may be as follows, *mutatis mutandis*:—

Warrant to cite Witnesses.

Mr A. B., Moderator, etc. Forasmuch as C. D., pursuer in a process presently depending before us against E. F., for the sin and scandal of , having applied to us for a diligence to cite witnesses in the said matter, in manner and to the effect underwritten: Therefore we require you, that, upon sight hereof ye pass, and lawfully summon G. H. and L., personally, or at their dwelling-places, to compear before us within the Kirk of , upon the day of , in the hour of cause, with continuation of days, to bear leal and soothfast witnessing upon the points and articles of the said process, in so far as they know, or shall be inquired at them; with certification as effeirs. And this our precept you are to return, duly executed and indorsed. Given, etc., by warrant, etc.

The summons and execution against witnesses are the same as in the forms given above.

(3.) *Oath administered to Witnesses.*

The witness being before the Court, the oath administered is the following, the witness standing and holding up his right hand:—"I swear by the Almighty God, and as I shall answer to God in the

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great day of judgment, that I will tell the truth, the whole truth, and nothing but the truth, so far as I know, or shall be asked."

It is provided by the Form of Process, cap. ii. sec. xi., that the witnesses are solemnly to be purged of malice, bribe, or good deed done or to be done, and of partial council. In reference to this the following initial questions were put to them:—

Has any person told you what to say or promised or given you anything for your evidence?

Have you any malice or ill-will against any of the parties?

Have you any interest in the case?—Form of Process, cap. ii. sect. 11.

4. Specimen Minutes for the Presbytery in Cases of Discipline.

(1.) *Minute of Presbytery appointing Committee of Inquiry in a case of* fama *against a Minister or Probationer.*

Minutes of Presbytery.

At D., day of 19 , which day the Presbytery of D. met, and was constituted, and being alone, it was stated by a member of Court, that certain very unpleasant reports were prevailing in regard to the character of Mr A. B., preacher of the gospel within their bounds (or their brother, Mr A. B., Minister of the Congregation at C.), whereupon the Presbytery, after due consideration of the same, appointed the following members, viz. E., F., G., and H., a committee to make further inquiry into the nature of the *fama* now prevailing against the said A. B., and to report to the Presbytery at their next meeting as to the procedure which it may be proper to adopt in this matter. Closed, etc.

(2.) *Minute appointing Presbyterial Visitation.*

The Presbytery having taken this matter into their serious consideration, did, and hereby do, appoint a visitation of the Congregation of C., to take place on day of next, that the elders and communicants of said Congregation may be examined respecting the rumours now prevailing in regard to their Minister. The Presbytery instruct Mr E. F. to preach that day; and they further appoint Mr G. H. to preach in the Church of C., on Sabbath, the day of , that due intimation of said meeting of Presbytery may be given to all concerned.[1]

(3.) *Minute when Petition against a Minister is presented.*

The Presbytery being met, etc. Compeared Mr L. M., and presented a petition, signed by certain persons, styling themselves heads of families in the Congregation of C., and members of the Free Church there, praying the Presbytery to inquire into certain reports now prevalent in regard to Mr A. B., Minister of said Congregation (the particular crime alleged must be stated). The Presbytery being alone, resolved, after due deliberation, that the petition should lie on the table till their next ordinary meeting, then to be taken into consideration, and (should the person accused be absent) they appointed their Clerk to give intimation thereof to the said Mr A. B.

[1] Seven free days must elapse between the intimation and the meeting of Presbytery.

(4.) *Minute when the Presbytery has resolved to serve a Libel upon a Minister in their own name.*

The Presbytery hereby approve generally of the form of libel prepared by their committee against Mr A. B., Minister at . They resolve to consider its relevancy, and the propriety of serving it, at a meeting of Presbytery to be held at on the day of at o'clock. They hereby instruct their officer to summon Mr in regular form to attend said meeting, and instruct their clerk to transmit to him a copy of the proposed libel, and of the minute now agreed to regarding it, in such time as to give him full ten days' notice, according to Act V. 1853.

(5.) *Minute when the Presbytery have considered the relevancy of a Libel against a Minister which they propose themselves to serve.*

At , the day of 19

The Free Presbytery of met, etc. etc.

The Presbytery took up the case of the libel against Mr A. B.

It was intimated on the part of the clerk and the officer that the instructions of last meeting had been complied with. Mr A. B. appeared in his place as a member of Court. The Presbytery took into consideration the proposed form of libel against Mr A. B.

It was moved and seconded that this form be found relevant as a libel.

It was also moved and seconded that it be found irrelevant.

The votes having been marked, etc. etc.

The Presbytery accordingly resolve to serve the libel upon Mr A. B., as one which they have already found to be relevant. From which judgment Mr A. B. dissented, and protested for leave to complain to the Synod of ; promising, etc. etc.

In accordance with Act IV. 1853, the Presbytery order the libel to be now served in due form, notwithstanding the dissent and complaint, and find that Mr A. B. now ceases, *ipso facto*, to exercise the functions of his office.

(6.) *Minute, when it is certified to the Presbytery that the Libel has been served, notwithstanding a Dissent and Complaint.*

The Presbytery finding that the libel, as a libel found to be relevant, has been served in due form upon Mr. A. B., but that a dissent and protest for leave to complain have been duly recorded and acted on, hereby sist all further procedure in the case until a final decision on the relevancy shall have been pronounced by a superior Court.

(7.) *Minute when the Libel has been served without Dissent and Complaint, and the Presbytery desires to act under Act X.* 1854.

The Presbytery find that in this case it does not appear expedient for them, in the circumstances, to act both as prosecutors and judges, and therefore they hereby refer the case to the Synod of

(8.) *Minute when Libel given in by the Members of the Congregation.*

Compeared Mr L. M., , who gave in a libel against Mr A. B., Minister of , which was authenticated

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by the signatures of the Moderator and Clerk, the tenor whereof follows (*here take it in*). The Presbytery having considered said libel, order a copy thereof, and of the list of witnesses annexed thereto, to be served on the said A. B., and direct their officer to cite him to compear before the Presbytery to answer the same at their next ordinary meeting, to be held on day of next, at o'clock; said citation to be made ten free days at least before said meeting.

(9.) *Minute of Meeting when accused Party appears, and the relevancy of the Libel is considered.*

The Presbytery-officer returned execution of citation against the said Mr A. B., properly attested, bearing that he had, on the day of last, regularly served the said A. B. with a copy of the libel and list of witnesses, and duly summoned him to compear before the Presbytery this day, to answer to the same. Mr A. B. being called, compeared. Mr L. M. attended on behalf of the libellers. The libel having been read over, the following defences were given in on the part of Mr A. B. (*here take them in*). Parties were then heard on the relevancy of the libel; and being removed, the Presbytery did, and hereby do, find the major proposition of the libel relevant; they also find the articles of the minor proposition relevant. Parties being called in, this sentence was intimated to them. The Presbytery appoint their next meeting to be held at on the day of next, for the purpose of dealing with the said A. B. according to the form of process; or of resolving to proceed to the probation of said libel according to law, and of granting warrant for summoning the witnesses, for proving thereof, as they shall see cause; and they instruct their Clerk to give timely information of said meeting to Mr A. B., and that the Presbytery require that he appear personally.

Should the Presbytery be unsuccessful in bringing the accused party to an acknowledgment of guilt, they then resolve to proceed to probation.

(10.) *Minute when the Presbytery desires to act under Act IX.* 1854.

The Presbytery find that it does not appear expedient, in the circumstances, for the proof to be taken, except in the presence of those who have the power of giving a final deliverance as to its effect, and they therefore hereby refer the case to the Synod of .

(11.) *Minute of Presbytery resolving to try the Case themselves, and to take the Proof, although they are the Prosecutors.*

The Presbytery do not judge it expedient to adopt the course allowed by Acts IX. and X. 1854, and therefore resolve to proceed to take the proof.

(12.) *Minute when Presbytery resolve to proceed to Probation.*

The Presbytery having resolved to proceed to a proof of the charges in the libel, appointed their next meeting to be held at , on the day of for this purpose, and they authorised and empowered their officer to summon such witnesses in the list appended to said libel, as to the libellers may

seem meet, to appear in said place, on that day, to give evidence in the cause, and they appoint their Clerk to issue their edict for that purpose. Parties were summoned *apud acta* to attend said meeting.

The witnesses are cited, and examined, in the same way as before, *vide* Kirk-Session.

The witnesses on the part of the prosecution having been examined, the defender is then allowed an exculpatory proof, the Presbytery granting warrant for the citation of the witnesses, as in the former case. The exculpatory proof being finished, the Presbytery come to a deliverance, after hearing parties on the evidence. If the libel infer deposition, and the crime be proved, sentence is then carried into execution, provided no appeal be taken to a superior court.

(13.) *Form of Minute in case of Deposition.*

(*Place and Date.*)

Deposition.

Which day the Presbytery of D. being met, and duly constituted, etc. Sederunt, etc. The Presbytery having had under their consideration the libel, at the instance of against Mr A. B., Minister of the Congregation at C., which set forth, etc., and the citation of the said A. B.—his compearance—his answers to the said libel against him—the proof adduced—and having found the same relevant by the acts and practice of this Church, to infer deposition, as also the articles of the said complaint, sufficiently proved by the depositions of the witnesses, and other proof adduced, viz., that (*here narrate the charges found proven*), as the proof adduced bears. Therefore, the Presbytery did, by their vote, depose the said A. B., likeas they hereby do, in the name of the Lord Jesus Christ, the alone King and Head of his Church, and by virtue of the power and authority committed by him to them, depose the said A. B. from the office of the holy ministry; prohibiting and discharging him to exercise the same, or any part thereof, in all time coming, under the pain of the highest censures of the Church.

Previously to the moderator pronouncing the solemn sentence of deposition, prayer is offered by one of the brethren.[1]

(14.) *Form of Deposition.*

In the name of the Lord Jesus Christ, the sole King and Head of this Church, and by virtue of the power and authority committed by Him to it, I do now solemnly depose you, Mr A. B., Minister of the Free Church Congregation at C., from the office of the holy ministry, prohibiting and discharging you from exercising the same, or any part thereof, in all time coming, under the pain of the highest censure of the Church; and I do declare the church of C. vacant, from and after the day and date of this sentence.

If signs of penitence have been given, and the crime proved does not demand so severe a punishment as deposition, but still that so much guilt has been proved as that some punishment is called for, the court may *suspend* the accused from the exercise of his ministerial functions, and that either for a limited or unlimited period, as to the

[1] Sentence of deposition must in all cases be reported to the General Assembly; and the Assembly alone can pronounce sentence of deposition on a Minister in his absence.

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Presbytery may seem most proper in the circumstances of the case, and may declare the pastoral tie to be dissolved.

If the person accused be a preacher of the gospel, he is, in the event of the libel being proved, deprived of his license.

(15.) *Minute in the case of Deprivation of License.*

The Presbytery therefore did, and hereby do, deprive the said Mr A. B. of his license as a preacher of the gospel, declare that he cannot be admitted into any pulpit within the bounds of the Free Church of Scotland, and that he is disqualified to accept a call, or be received into any pastoral charge.

In the case of a minister being deposed, or a probationer deprived of his license, intimation thereof must be made to the Clerk of the Assembly.

(16.) *Citation of Parties by the Presbytery.*

(*Note.*—These Forms are subject to the alterations required by Free Church procedure when the relevancy of the libel has to be considered before it is served.)

Warrant of Citation.

At D., the day of 19 years, which day the Presbytery of D., being met and constituted, *inter alia*, the said Presbytery having heard, read, and considered the foregoing libel, at the instance of the said Presbytery against Mr A. B., Minister of C., for the crime of they did, and hereby do, grant warrant to, and authorise P., Presbytery officer, to serve copies thereof, and of the list of witnesses thereto subjoined, and of this deliverance, on the said A. B., and to cite him to appear personally before the said Presbytery at their next meeting, which is appointed to take place at , the day of next, to answer thereto; and to give the said citation in writing, either personally or at his dwelling-place, bearing a competent time for his giving in his answers and objections to the said libel and list of witnesses, if he be so advised, at least ten days before the day of compearance.

A. B., *Moderator.*
N. O., *Presbytery Clerk.*

The warrant is endorsed upon, or appended to the principal libel, and the officer should have the libel and warrant, or duly authenticated extracts thereof, in his possession, when he cites the party.

Citation thereon.

I, P., Presbytery officer, by virtue of a libel, at the instance of the reverend Presbytery of D., against you, Mr A. B., Minister of C., for the crime of , and of the warrant and authority thereon by the said reverend Presbytery, of which libel, with the list of witnesses thereto subjoined, and warrant and authority thereon by the said reverend Presbytery, what is contained on this and the preceding pages, is a just and exact copy, do hereby lawfully cite you, the said A. B., to compear personally before the said Presbytery at

their next meeting, which is appointed to take place at , the day of next, in the hour of cause, at o'clock noon, to answer to the said libel; and I further charge and ordain you, the said A. B., to give in answers and objections to said libel and list of witnesses, if you be so advised, within days, at least ten free days before the said day of compearance. This I do upon the day of , in the presence of these witnesses, L. and M.

L., *Witness.* P., *Presbytery Officer.*
M., *Witness.*

Certificate of Execution.

I, P., officer to the reverend Presbytery of D., hereby certify that upon the day of , 19 years, I did, in virtue of a libel at the instance of the reverend Presbytery of D., against Mr A. B., Minister of C., for the crime of , and of the warrant and authority thereon granted by the said Presbytery, lawfully cite the said A. B., to appear personally before the said Presbytery at their meeting, which is appointed to take place at , on the day of next, in the hour of cause, at o'clock noon, to answer to the said libel; and I further charged and ordained him to give in answers and objections to the said libel, and list of witnesses thereto subjoined, if he be so advised, before the said day of appearance; a just and exact copy of which libel, and of the list of witnesses thereto subjoined, and of the warrant and authority granted thereon by the said Presbytery, having a citation attached thereto to the above effect, subscribed by me and the following witnesses, I delivered to the said A. B., personally apprehended (*if not personally*, by delivering the same at his dwelling-house), before and in presence of L. and M., witnesses to the premises and hereto with me subscribing.

L., *Witness.* P., *Presbytery Officer.*
M., *Witness.*

5. SPECIMEN MINUTE FOR THE SYNOD, IN THE EVENT OF A CASE COMING BEFORE THEM UNDER ACTS IX. AND X. ASSEMBLY 1854.

Minute of Synod.

A reference in the case of libel against Mr A. B., was brought before the Synod from the Presbytery of , under Act IX. Assembly 1854.

Parties were called, etc.

It was moved and seconded that the Synod dismiss the reference, and instruct the Presbytery to proceed with the case themselves.

It was also moved and seconded that the Synod sustain the reference, etc. etc.

The Synod accordingly sustain the reference.

Thereafter it was moved and seconded that the Synod proceed to try the case.

It was also moved and seconded, that the Synod refer the case to the General Assembly, etc. etc.

The Synod accordingly refer the case to the General Assembly.

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Forms of Libel.

3. Forms of Libel.

1. *Case of Theft.*

Case of Theft.

Mr A. B., Minister of the Free Church Congregation at X., in the Presbytery of Z., you are indicted and accused, at the instance of C. D., Moderator, and E. F., G. H., etc., remanent members of the Presbytery of Z.,—That albeit by the Word of God, and the laws and discipline of the Free Church of Scotland, theft, especially when committed by a Minister of the Gospel, is a crime of a heinous nature, and severely punishable; yet true it is and of verity, that you, the said A. B., are guilty of the said crimes, aggravated as aforesaid, in so far as, *1mo*, On one or other of the days of the month of December 19 , or of the month of November immediately preceding, or of January immediately following, or at least on one or other of the days between the month of July 19 and July 19 , the particular day being to the Presbytery unknown, you the said Mr A. B., being then a Minister, etc., within the shop in Wilson Street, Glasgow, then occupied by Mr M. O., bookseller and stationer there, now deceased, did wickedly and feloniously steal and theftuously carry away a paper book, or a certain quantity of paper stitched or bound up, the property, or in the lawful possession of the said M. O. *2ndo*, [after various charges, the earliest being not more than five years before date of libel.[1]] Further, one or more of the said acts of theft having of late become notorious, a *fama* or rumour thereanent has arisen in the village of X. and the neighbourhood, to the great scandal of religion and the destruction of your usefulness as a Minister of the Gospel at X. aforesaid: and the following documents will be produced in evidence against you, in support of the aforesaid charges:—viz., letter or draft-letter, dated, etc. etc., and will be lodged in the hands of the Presbytery Clerk, that you may have an opportunity of seeing the same.

All of which, or part thereof, being found proven by the Presbytery of Z., before which you are to be tried, you, the said A. B., ought to be deposed from the office of the Holy Ministry, or otherwise censured or punished according to the laws of the Church and the circumstances of the case and degree of your guilt in the premises, for the glory of God and the edification of the Church, and as a terror to others, to prevent them from committing such offences and sins in time coming.

(Signed) O. N., *Moderator.*
W. P., *Presbytery Clerk.*

2. *Case of Drunkenness.*

Case of Drunkenness.

Mr A. B., Minister of the Free Church Congregation at X., in the Presbytery of Z., you are indicted and accused, at the instance of Mr C., Moderator *pro tempore*, and Messrs D., E., F., and G., members of the said Reverend Presbytery of Z.,—That albeit by the Word of God, and the laws and discipline of the Free Church of Scotland, drunkenness, especially on the Lord's day, and exhibited within the Church, and in the performance of the services of the Church, is an offence of

1 "If a scandal shall happen not to be noticed, in order to censure, for the space of five years, it shall not be again revived, unless it be of an heinous nature, or become again flagrant." Form of Process 1. § 4.

an heinous nature, unbecoming the character and sacred profession of a Minister of the Gospel, and severely punishable; yet true it is and of verity, that you, the said Mr A. B., are guilty of the said offence of drunkenness, aggravated as aforesaid, in so far as (1.) on Monday the day of November, in the year Nineteen hundred and , or on one or other of the days of that month, or of October immediately preceding, or of December immediately following, within the Manse or House then occupied by you at X. aforesaid, you, the said A. B., were so much under the influence of drink as to be unable to articulate distinctly. Further, (2.) on Saturday the day of December Ninetéen hundred and , on one or other, etc., place above libelled, you, the said A. B., were so much under the influence of intoxicating drink as to be unable to conduct family worship on the evening of that day. Further (3.) on Sabbath, the day of December Nineteen hundred and , or on one or other, etc., you were under the influence of intoxicating drink to such an extent that your speech was inarticulate and you did appear in the Free Church at X. under the influence of intoxicating drink, and were thereby incapacitated from conducting the usual services in a proper manner.

All which or part thereof being found proven against you, the said A. B., by the said Reverend Presbytery of Z., before which you are to be tried, by your own public confession, or after habile and competent proof, you, the said A. B., ought to be punished according to the rules and discipline of the Church, and the usage observed in such cases, for the glory of God, the edification of the Church, and the deterring of others holding the same sacred office from committing the like offences, in all time coming.

Signed at X., in name, presence, and by appointment of the Presbytery of Z, this day of by

M. N., *Moderator.*
O. P., *Clerk.*

3. *Case of Fornication and Clandestine Marriage.*

Case of Fornication.

Mr A. B., Minister of the Gospel at X., you are indicted and accused, at the instance of the Reverend C. D., Moderator *pro tem.* of the Free Church Presbytery of O., and the Reverend Messrs E., F., G. and H., etc., remanent members of said Presbytery;—That whereas by the Word of God, and the laws and discipline of the Free Church of Scotland, fornication and living in a state of concubinage, and the entering into or contracting marriage irregularly and clandestinely, without proclamation of banns and not *in facie ecclesiæ*, especially when committed by a Minister of the Gospel, are offences of an heinous nature, dishonouring to God, and fitted to give occasion to the adversary to speak reproachfully, and therefore severely punishable; yet true it is and of verity, that you, the said A. B., are guilty of the said offences, or of one or other of them, in so far as within the Free Church Manse of X., or elsewhere to the Prosecutors unknown, and on various occasions within the last eight months, you had carnal intercourse with your servant, J. P., whereby she is now pregnant with a child, of which you are the father. And you, the said A. B., have been living in a habitual state of concubinage with the said J. P. since at least the sixth day of January last, and down to the sixth day of August bypast, on which day you, with the said J. P., compeared before J. N., Esq., one of His Majesty's Justices of the Peace for the

APPENDIX XI. 3. *Forms of Libel.*

county of O. and K., and in his presence acknowledged yourselves to be married persons, husband and wife; or otherwise you, the said A. B., are guilty of the said sin of marrying irregularly and clandestinely without proclamation of banns and not *in facie ecclesiæ*, inasmuch as on the sixth day of August in the present year, having first by application to A. B., Procurator-Fiscal of the county of O., obtained a petition and complaint, to be presented by him to the Justices of Peace for the said county, against yourself and the said J. P., you did, accompanied by the said J. P., compear at K., before J. N., Esq., one of His Majesty's Justices of the Peace for the said county, and did in his presence then and there, alongst with the said J. P, acknowledge yourselves to be married persons, husband and wife, without having caused banns of marriage to be proclaimed according to law, and without having followed any of the steps required to constitute a marriage *in facie ecclesiæ*, and you did thereafter, namely on the ninth day of the said month of August, tender an extract of the conviction or sentence of the said Justice of the Peace, following on the said compearance and acknowledgment to Mr J. W., Registrar of the parish of K., for the purpose of obtaining the recording of a clandestine or irregular marriage between you and the said J. P.

All which, etc.

4. *Case of Heresy.*

Case of Heresy.

Mr A. B., Minister of the Free Church Congregation at X., in the Presbytery of Z., you are indicted and accused, at the instance of the said Presbytery of Z., in connection with the Free Church of Scotland, —That whereas the publishing and promulgating false and unsound doctrines, at variance with the Holy Scriptures and with the doctrines and Confession of Faith of the Free Church of Scotland, by a Minister of the said Church, is an offence of an heinous nature and severely punishable; and more particularly, (1.) Albeit the doctrine that moral evil has no real existence, but is such only in appearance and in reference to man's limited views; (2.) As also the doctrine that native good and native tendencies to good, exist in a greater degree than evil and tendencies thereto, in the present estate and moral nature of man; (3.) As also the doctrine, etc., . . . (13.) As also the denial of the doctrine that the Lord Jesus Christ is very God as well as very man, that he freely gave himself a voluntary sacrifice unto death for sin, and that by his death he made a proper and real satisfaction to his Father in behalf of his people, are contrary to the Holy Scripture, and to the doctrine held by the Free Church of Scotland, and the Confession of Faith, more especially to what is contained therein concerning (1, 2, 3, 4, 5, 8, 9) human depravity, the fall, and man's natural relation to God, (10, 11) grace and regeneration, (6) the ultimate condition of the impenitent, (7) justification of faith, (2) the authority and obligation of revelation and the Divine Law; and (13.), the person and work of Christ; yet true it is and of verity, that you, the said Mr A. B., hold and have promulgated the aforesaid tenets, and have avowed, published, and disseminated the same, in all or some of the books under mentioned written by you, and published to the world, *videlicet:*—

1. A Book entitled [*Here copy title-page*].

2. A Book entitled, etc.; all which books were printed and published by you, Mr A. B., or by others acting under your authority and instructions, in or about the years respectively mentioned in their respective title-pages; and which books, being to be used in evidence

against you, are lodged in the hands of the Clerk to the Presbytery, that you may have an opportunity of seeing the same. Of all which books you have judicially acknowledged yourself to be the author, to the said Presbytery of Z., by letter under your hand, dated X., twenty-third September Nineteen ; which books contain throughout an avowal, declaration, enforcement, and promulgation of the above-mentioned noxious, false, and unsound doctrines. More particularly, and without prejudice to the said generality—

1st, You, the said Mr A. B., in the aforesaid work entitled, etc., and at pages 163 and 164 of the first volume of that work, made use of the following expressions, *videlicet*:—[*Here take in extract*].

2nd, etc.—And the aforesaid letter by you, acknowledging the authorship of the several books before written, as also the other letters under mentioned, also written by you, as also the following Extract from the Records of the General Assembly; as also the following Extracts from the Records of the said Presbytery of Z.; as also the other papers and documents in the case under mentioned, being to be used against you, are lodged with the Clerk of Presbytery, or the person acting for him *pro tempore*, that you may have an opportunity of seeing the same:—[*Here follows List*].

All which, etc.

List of Witnesses and Documents.

At the close of the libel follows the list of witnesses (which is to be regularly served on the accused, with a full copy of the libel) in this manner:—

"List of witnesses to be adduced against you, the said A. B., for proving the foregoing libel:—

1. E. F., presently gardener to C. E., Esq., now or lately residing at D.
2. G. H., now or lately residing at F."

If there are articles to be produced in evidence, they should be thus expressed after the list of witnesses:—

"There will also be produced a further proof of the foregoing libel."

(*Here mention Documents produced.*)

The list of witnesses and documents ought to be authenticated by the signatures of the Moderator and Clerk of the Presbytery, and by that of the libeller, if he is a private party.

4. Forms of Extracts.

1. WHEN WHOLE MINUTE IS GIVEN.

At , the day of 19 ;
Which day the of having met and been constituted,—Sederunt (*give it full*), etc. etc.

Extracted by

Clerk.

2. WHERE ONLY PART GIVEN.

At, etc. (*no Sederunt*).
Inter alia, etc. etc.

Extracted by

Clerk.

APPENDIX A.

JUDGMENTS OF HOUSE OF LORDS.

Bannatyne *v.* Overtoun.

"It is ordered and adjudged, by the Lords Spiritual and Temporal in the Court of Parliament of his Majesty the King assembled, that the said interlocutors complained of in the said appeal be, and the same are hereby, reversed. And it is further ordered that the cause be, and the same is hereby, remitted back to the Court of Session in Scotland, with a direction to declare (1) that the association or body of Christians calling themselves the United Free Church of Scotland has no right, title, or interest in any part of the whole lands, properties, sums of money, and others which stood vested, as at the 30th day of October 1900, in the Right Hon. John Campbell, Baron Overtoun, and others, as general trustees of the Free Church of Scotland; and (2) that the said appellants (pursuers), and those adhering to and lawfully associated with them, conform to the constitution of the Free Church of Scotland, are and lawfully represent the said Free Church of Scotland, and are entitled to have the whole of the said lands, property, and funds applied according to the terms of the Trusts upon which they are respectively held for behoof of themselves and those so adhering to and associated with them and their successors, as constituting the true and lawful Free Church of Scotland; and that the defenders, the said Right Hon. John Campbell, Baron Overtoun, and others, as general trustees foresaid, or the defenders second enumerated, or those of the defenders in whose hands, or under whose control, the said lands, property, and funds may be for the time being, are bound to hold and apply the same (subject always to the Trusts aftermentioned) for behoof of the pursuers and those adhering to and associated with them as aforesaid, and subject to the lawful orders of the General Assembly of the said Free Church of Scotland, or its duly appointed Commission for the time being; and in particular that they are bound to denude themselves of the whole of said lands, property, and funds, in favour of such parties as may be nominated as general trustees by a General Assembly of the Free Church of Scotland, or its duly appointed Commission for the time being, but subject always to the trusts upon which the said lands, property, and funds were respectively held by the said defenders for behoof of the Free Church of Scotland as at 30th October 1900; and to do therein as shall be just and consistent with this judgment and direction: And it is further ordered that the respondents do pay, or cause to be paid, to the said appellants the costs of the action in the

Court of Session, and also the costs incurred in respect of the said appeal to this House, the amount of the said last-mentioned costs to be certified by the Clerk of the Parliaments: And it is also further ordered that unless the costs, certified as aforesaid, shall be paid to the parties entitled to the same within one calendar month from the date of the certificate thereof, the Court of Session in Scotland, or the Lord Ordinary officiating on the Bills during the vacation, shall issue such summary process or diligence for the recovery of such costs as shall be lawful and necessary."

Macalister *v.* Young.

"It is ordered and adjudged, by the Lords Spiritual and Temporal in the Court of Parliament of his Majesty the King Assembled, that the said interlocutors complained of in the said appeal be, and the same are hereby, reversed. And it is further ordered that the said cause be, and the same is hereby, remitted back to the Court of Session in Scotland, with a direction to assoilzie the defenders from the conclusions of the action, and to do therein as shall be just and consistent with this judgment and direction; and it is further ordered that the respondents do pay, or cause to be paid, to the said appellants the costs of the action in the Court of Session, and also the costs incurred in respect of the said appeal to this House, the amount of such last-mentioned costs to be certified by the Clerk to the Parliaments; and it is also further ordered that unless the costs, certified as aforesaid, shall be paid to the parties entitled to the same within one calendar month from the date of the certificate thereof, the Court of Session in Scotland, or the Lord Ordinary officiating on the Bills during the vacation, shall issue such summary process or diligence for the recovery of such costs as shall be lawful and necessary."

APPENDIX B.

CHURCHES (SCOTLAND) ACT, 1905.

5 EDW. VII. CHAP. 12

An Act to provide for the Settlement of certain Questions between the Free Church and the United Free Church in Scotland, and to make certain amendments of the law with respect to the Church of Scotland. [11*th August* 1905.]

Whereas questions have arisen as to property between the Free Church and the United Free Church in Scotland and judgments have been given by the Courts in favour of the Free Church:

And whereas a Royal Commission appointed to inquire into the matter have reported that the Free Church are unable adequately to carry out all the trusts of the property, and that it is desirable to provide for the allocation thereof, provision being made for the equipment of the Free Church:

And whereas it is expedient to make provision for such allocation by means of the appointment of a Commission:

And whereas it is expedient to amend the law relating to the subscription of the Confession of Faith by Ministers of the Church of Scotland and others:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Allocation of Church property between the Free Church and the United Free Church by a Commission.

1.—(1) The Commission established under this Act shall allocate between the Free Church and the United Free Church the property in question as defined by this Act in such manner as appears to the Commission fair and equitable, having regard to all the circumstances of the case, but subject to the provisions of this Act.

(2) The Commission in making their allocation of property under this Act, shall allocate congregational property to the Free Church in any case where they consider that out of those who in the opinion of the Commission were members or adherents of the congregation on the thirtieth day of October, nineteen hundred, and are at the commencement of this Act both resident in the district, and members or adherents of the Free Church or United Free Church congregation, at least one-third are members or adherents of the Free Church congregation; with power, however, to make special arrangements where several church buildings are situated in the same neighbourhood, and in any other cases which appear to them to require exceptional treatment; and

(3) The Commission in making their allocation of property under this Act shall, having regard to congregational contributions and other income of the Free Church, make adequate provision for the education of the students for the ministry of the Free Church, for the support, subject to payment of the usual annual contributions (if any) of aged and infirm ministers and of widows and orphans of ministers of that Church, for the support of the ministers of Free Church congregations to which congregational property has been allocated under this Act, for itinerant preachers, and for the general purposes of administration and management of that Church. The funds and property out of which provision may be made for each of the above-mentioned objects shall be those set out in the second column of the First Schedule to this Act, opposite the description of the object in the first column of that schedule.

Orders for carrying allocation into effect.

2.—(1) The Commission may make such orders as they may consider necessary for carrying into effect any allocation under this Act (including the modification of the Acts relating to the Widows' and Orphans' Fund), and may also, before that allocation is made, make interim orders having temporary effect as respects the property in question as defined by this Act. Any such orders shall have effect as if enacted in this Act, may be recorded in the Register of Sasines or other appropriate register, and shall not be chargeable with stamp duty.

(2) Subject to the provisions of this Act, the Commission, if they think fit, may order that any property (other than congregational property) allocated to either Church under this Act shall be burdened with such bond, or charge, in favour of the other Church or in favour of third parties who may advance money for the purposes of such bond or charge, as they direct. Any congregational property allocated to either Church shall be subject to any bonds, burdens, or debts thereon in respect thereof, and the Commissioners may charge upon the particular congregational property concerned any moneys expended since thirty-first October, nineteen hundred, on improvements of that property or in paying off debt incurred in respect of that property.

(3) The Free Church and the United Free Church respectively shall hold any property allocated to them under this Act for the purposes of and in accordance with their respective constitutions, and, in allocating to the United Free Church any property which is, at the commencement of this Act, appropriated to any special Church purposes, the Commission shall, so far as possible, provide by their orders that the property shall remain, in the hands of the United Free Church, appropriated to the same or similar purposes.

(4) Any proceedings in any court between the Free Church and the United Free Church as to any property in question as defined by this Act, and all diligence and execution in any such proceedings, shall, by virtue of this Act, be permanently sisted or stayed, and no such proceedings shall be instituted as respects any such property before that property has been allocated by the Commission under this Act.

(5) No court shall have power to review or interfere in any way with the orders or other proceedings of the Commission, but such orders or proceedings shall not prejudice or affect any rights, duties, and liabilities as regards any property in question as defined by this Act other than those of the Free Church and the United Free Church.

APPENDIX B.

Churches (Scotland) Act, 1905.

Establishment of Commission.

3.—(1) The Commission under this Act shall consist of five Commissioners to be appointed by His Majesty.

(2) If a vacancy occurs in the office of any Commissioner so appointed by reason of death, resignation, incapacity, or otherwise, His Majesty may appoint some other person to fill the vacancy, and so from time to time as occasion requires.

(3) The Commission may appoint and employ such Assistant Commissioners, officers, and persons, as they think necessary, and may remove any officer or person so appointed or employed.

(4) The salaries and remuneration of any persons so appointed or employed, and all expenses of the Commission incurred in the execution of this Act, shall be paid out of the property in question as defined by this Act, and the Commission may make any orders necessary for the purpose.

(5) The quorum of the Commission shall be three, and in case of an equal division of votes at any meeting of the Commission the person who is Chairman at that meeting shall have a second or casting vote. The procedure, place of meeting, and authentication of documents of the Commission, shall be regulated in such manner as the Commission determine.

(6) The Commission and any Assistant Commissioner appointed under this Act may examine witnesses on oath, and, for the enforcing the attendance of witnesses, after a tender of their expenses, the examination of witnesses, and the production of books and documents, shall have all such powers, rights, and privileges as are vested in any of His Majesty's courts of law.

(7) The powers of the Commission shall be in force until the first day of March nineteen hundred and six, but His Majesty may by Order in Council continue their powers for such further period as His Majesty thinks fit.

Provision defining the property, etc., to be allocated.

4.—(1) All property which, on the thirtieth day of October nineteen hundred, was vested in or held by or on trust for, or was payable to or for behoof of, the Free Church, or was held for the purposes of any school, scheme, mission, or other special object of the said church, or, where any such property has been disposed of since that date, the proceeds of sale thereof or any investments representing the same, including any revenue or accumulations of any such property, proceeds of sale, or investments accruing since the said date, shall, notwithstanding anything that has taken place since said date, be deemed to be property in question within the meaning of this Act, subject in any case to any disbursements properly made since the said date (which are hereby declared to stand good), and any person held accountable for any such property, in accordance with an order of the Commission, shall account for the same accordingly.

(2) Such rights, duties, and liabilities (including the right of appointing representatives on bodies of trustees or other boards) as belonged or attached to the Free Church on the thirtieth day of October nineteen hundred shall be subject to allocation by the Commission in the same manner as the property in question within the meaning of this Act.

(3) Any legacies, bequests, or conveyances of property under testamentary writings made before the thirtieth day of October, nineteen hundred, by testators who died thereafter and before the commencement of this Act, in dispute between the Free Church and the United Free Church, shall be allocated to or apportioned between the Churches in such manner as the Commission deem fair and

equitable, having regard to what seems to them to have been the intention of the testator, and the capacity of the Churches respectively to carry out any special trusts annexed to the legacy; and all proceedings in any court as regards any disputes between the two Churches in respect of such legacies shall be permanently sisted or stayed.

(4) In this section, the expression "property" includes property heritable and movable and all interests therein; and the expression "rights" includes powers, privileges, and immunities.

Formula of subscription to the Confession of Faith in the Church of Scotland.

5. The formula of subscription to the Confession of Faith required from ministers and preachers of the Church of Scotland as by law established and from persons appointed to Chairs of Theology in the Scottish Universities and the Principal of Saint Mary's College, Saint Andrews, respectively, shall be such as may be prescribed by Act of the General Assembly of the said Church with the consent of the majority of the presbyteries thereof. The formula at present in use in any case shall be required until a formula in lieu thereof is so prescribed.

Definitions, repeal, and short title.

6.—(1) In this Act the expression "the Free Church" means the association or body of Christians known and designated as the Free Church of Scotland; and the expression "the United Free Church" means the association or body of Christians known and designated as the United Free Church of Scotland, and, unless the context otherwise requires, those expressions respectively include any court, congregation, or college of either Church, or any member thereof as such, or any person acting on behalf of such church, congregation, or college.

(2) The Acts mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule, both as originally enacted, and as incorporated, ratified, confirmed, or approved by any other Act.

(3) This Act may be cited as the Churches (Scotland) Act, 1905.

APPENDIX B.

Churches (Scotland) Act, 1905.

Section 1.

SCHEDULES.

FIRST SCHEDULE.

Object.	Funds and Property.
1. Education of students of the Free Church.	1. College endowments and bursary funds; college buildings.
2. Support of aged and infirm ministers of the Free Church.	2. Aged and Infirm Ministers' Fund.
3. Support of widows and orphans of ministers of the Free Church.	3. Widows' and Orphans' Fund.
4.—(*a*) Support of ministers of Free Church congregations to which congregational property has been allocated under this Act and of itinerant preachers. (*b*) General purposes of administration and management of the Free Church.	4. Sustentation Fund; Home Missions Fund; Highlands and Islands Fund; any moneys which the Commission regard as applicable for these or similar purposes. So far as those funds or moneys are not sufficient, any further amount required for this object shall be provided by such bond or charge as the Commission may direct to be imposed on any land or buildings in Scotland allocated to the United Free Church other than congregational property, colleges, schools, and any land or buildings bequeathed or given for special purposes.

Section 6

SECOND SCHEDULE.

Enactments Repealed.

Act.	Title.	Extent of Repeal.
An Act of the Parliament of Scotland passed in the year one thousand six hundred and ninety-three.	Act for settling the quiet and peace of the Church.	The words "the same to be "the confession of his faith, "and that he owns the "doctrine therein contained "to be the true doctrine "which he will constantly "adhere to, as"
An Act of the Parliament of Scotland passed in the year one thousand seven hundred and seven.	Act for securing the Protestant religion and Presbyterian Church government.	The words "do and shall "acknowledge and profess "and," and the words "as "the confession of their "faith;"

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1868, Act V.—Anent Appointment of Colleagues and Successors with relation to the Platform of the Equal Dividend.
1868, Act VI.—Declaratory anent sustaining Commissions from Kirk-Sessions at *pro re nata* and *in hunc effectum* Meetings of Presbytery.
1868, Act VII.—Declaratory Act anent Moderating in Calls.
1869, Act XI.—Regulation as to Payment by Deacons' Courts towards Assembly Expenses.
1873, Act II.—Anent Students entering Divinity Hall.
1873, Act VI.—Anent Representation of Foreign Presbyteries.
1875, Act I.—Anent Representative Elders in Newly-Sanctioned Charges.
1875, Act VIII.—Anent Platform of the Equal Dividend.
1875, Act X.—Anent Sales and Transference of Property.
1877, Act I.—Anent the Time of Electing Commissioners to Assembly.
1878, Act V.—Anent Admission of Self-sustaining Congregations to the Equal Dividend Platform.
1879, Act III.—Declaratory: anent Voting by Mandate.
1882, Act IV.—Anent Procedure at Calling and Settlement of Ministers.
1882, Act X.—Anent Medical Missions.
1883, Act II.—Anent Mode of Taking Evidence in Church Courts.
1885, Act II.—Anent Presybteries in an After-election electing Representatives to the Assembly after the Assembly has convened.
1885, Act X.—Anent Evidence of Persons having been Baptised previously to being admitted Communicants.
1886, Act II.—Anent Settling Ministers in case of Appeal.
1887, Act II.—Anent Presbyterial Oversight of Congregations.
1887, Act IV.—Amending Regulations of Examination Board.
1888, Act I.—Anent powers of Senatus,
1888, Act II.—Amending Act IV. 1859.
1889, Act I.—Anent Meeting-places of Presbyteries and Synods.
1889, Act II.—Anent more effectual Oversight of Congregations.
1889, Act IV.—Anent Authority to sell Property.
1889, Act IX.—Anent Sustentation Fund.
1889, Act XI.—Anent Supplements.
1889, Act XV.—Anent Appointment of Precentors.
1890, Act VI.—Anent return of Money to Vacant Congregations.
1891, Act IV.—Anent Aged and Infirm Ministers' Fund.
1892, Act V.—Anent Missionary Representatives in Assembly.
1893, Act I.—Anent Representation of Stations.
1893, Act II.—Anent Examination of Students.
1893, Act IV.—Representative Elders in Presbyteries, etc.
1893, Act VII.—Anent Sustentation Fund.

1893, Act VIII.—Anent Supplements.
1894, Act IV.—Anent College Committee.
1894, Act V.—Anent Overtures being sent to Foreign Presbyteries.
1894, Act VI.—Anent alteration to Act IV. 1893,
1894, Act X.—Anent Sustentation Fund.
1894, Act XIII.—Anent Supplements.
1894, Act XV.—Anent Highland Church Extension Charges.
1895, Act IX.—Anent Collecting Books.
1896, Act IV.—Anent Ministers' or Probationers' Roll.
1897, Act I.—Anent Procedure in Vacancies.
1897, Act III.—Anent Regulations for Retired Professors.
1899, Act IV.—Anent Relation of Congregations to Equal Dividend Platform.
1900, Act III.—Anent Assembly Expenses.
1905, Act II.—Anent Trustees.
1905, Act V.—Anent Public Worship.
1908, Act I.—Anent Admission of Ministers and Probationers.
1908, Act III.—Anent Finance.
1909, Act III.—Anent Finance.
1910, Act I.—Anent Public Worship.
1910, Act VI.—Anent Reading Act I., 1910.
1910, Act VII.—Anent Postures in Public Worship.
1910, Act VIII.—Anent Scheme of Studies.
1911, Act III.—Anent Finance.
1911, Act VI.—Anent Foreign Missions.
1912, Act III.—Anent Assessors' Expenses.
1912, Act IV.—Anent Citations.
1912, Act V.—Anent Serving of Edicts.
1912, Act VI.—Anent Revision of Libels.
1912, Act VII.—Anent Australian Students.
1914, Act II.—Anent Finance.
1914, Act IV.—Anent Education.
1917, Act VI.—Anent Foreign Missions.
1917, Act VII.—Anent Sale of Property.
1918, Act III.—Anent Aged and Infirm Ministers' Fund.
1918, Act V.—Anent Secretary to Highlands Committee.
1919, Act V.—Anent Education of Students.
1921, Act III.—Anent Foreign Missions.
1922, Act III.—Anent Training of Students.
1923, Act III.—Anent Training of Students.
1924, Act III.—Anent Administration of Highlands and Islands, Home Mission and Supply Committees.
1925, Act IV.—Office of General Treasurer.
1925, Act V.—Office of Secretary to Highlands and Islands Committee.
1926, Act IV.—Anent Free Church of Scotland General Trustees Nominees.
1926, Act VI.—Anent Training of the Ministry.
1929, Act III.—Regulations for the Guidance of Foreign Missionaries.
1929, Act V.—Anent Representation on Committees.
1930, Act III.—Anent Regulations for the Guidance of Foreign Missionaries.
1930, Act IV.—Anent Regulations of Highlands and Islands, Home Mission and Supply Committees.

1931, Act VII.—Anent Assessors.
1931, Act IV.—Anent Abertarff Presbytery.
1932, Act III.—Anent Regulations for Dependants of Deceased Ministers.
1932, Act IV.—Anent Regulations for Foreign Missionaries.
1932, Act V.—Anent Requirements at Ordinations and Inductions.
1933, Act III.—Anent Reserve Fund.
1933, Act IV.—Anent Return of part of Sustentation Fund Contribution to Vacant Congregations.
1933, Act V.—Anent Regulating Curriculum of Students.
1933, Act VI.—Anent Regulation 24 of the General Rules for . . . Missions.
1933, Act VII.—Anent Care and Condition of Buildings.
1934, Act III.—Anent Regulations for Dependants of Deceased Ministers.
1934, Act IV.—Dividing of the Presbytery of Edinburgh and Erecting the Presbytery of Perth.
1935, Act IV.—Anent Powers of the Training of the Ministry Committee.
1936, Act I.—Class I. Anent Mental Illness.
1936, Act II.—Anent Finance and Foreign Mission Funds.
1936, Act III.—Anent Office Staff, Legal Expenses and Statutory Orders.
1936, Act V.—Training of the Ministry—Grants.
1936, Act VI.—Repealing Act IV 1935.
1936, Act VIII.—Representative Elder in Presbytery and Synod.
1938, Act III.—Anent Repealing Act VII 1912.
1939, Act IV.—Anent Act of Repealing Act III 1938.
1939, Act V.—Keeping Buildings in Good Order.
1940, Act V.—Act Anent Amending Act III 1934 anent Grant to Widows and Dependants of Decesased Ministers.
1940, Act VI.—Act Anent Act V 1937 anent Payment to Ministers out of the Aged and Infirm Ministers' Fund.
1940, Act VIII.—(Interim) Admission of Ministers and Probationers.
1942, Act VI.—Anent Erecting the Presbytery of Perth.
1944, Act IV.—Anent Modified Course of Study.
1944, Act V.—Anent Amending Regulations anent Modified Course for Students.
1944, Act VII.—Anent Congregational Funds on D/R in Account of Custodier of Titles.
1948, Act VIII.—Anent Triennial Report on Condition of Buildings.
1949, Act VII.—Anent Act Rescinding Act IV 1944 anent Modified Course of Studies.
1949, Act IX.—Anent Change in Articles of Association of General Trustees Nominees.
1950, Act V.—Anent Training of Students.
1950, Act VI.—Anent Retiring Allowances to Principals and Professors.
1951, Act IV.—Anent Repealing Obselete Acts anent Retiring Allowances to Principal and Professors.
1951, Act VIII.—Anent Payment of Widows' and Orphans' Fund Rates for Professors.
1953, Act III.—Anent Staff Superannuation Schemes.
1953, Act IV.—Anent Arrangements of Synods.

1953, Act VI.—Anent Constitution of Examination Board.
1953, Act VII.—Anent Training of Students.
1953, Act XI.—Anent Meetings of Synods and Presbyteries.
1954, Act II.—Anent Amalgamation of Home Missions Committee with Committee on Evangelism.
1954, Act III.—Anent Amendment for Aged and Infirm Agents.
1954, Act VII.—Resuscitation of Presbytery of Kaffraria.
1956, Act IV.—Anent Home Missions Grants.
1956, Act VI.—Formation of Presbytery of Onterio and Western Canada and Synod of North America.
1958, Act IV.—Anent Synodical Representation.
1958, Act V.—Anent Repealing Act 2 Class II 1935.
1958, Act VI.—Anent Allocation of Legacies to Revenue.
1959, Act IV.—Anent Stipends of Ministers on Special Arrangements.
1959, Act VI.—Anent Beneficiaries of Aged and Infirm Ministers' and Retired Professors' Fund.
1959, Act VII.—Anent Retiring Allowances to Principals and Professors.
1960, Act I.—Anent Regulations as to Ministers on the Roll of Probationers and Resigned Ministers.
1960, Act VI.—Anent Regulations governing provision for Aged and Infirm Agents.
1960, Act VII.—Anent Publications Department.
1961, Act I.—Anent Membership of Publications Department.
1961, Act III.—Anent Supplement and Allowances.
1961, Act IX.—Anent Act VI 1960.
1961, Act VIII.—Anent College Curriculum.
1962, Act II.—Anent Standing Order VI, 1, (Committees).
1962, Act III.—Anent Church Extension Charges.
1962, Act V.—Anent Regulations Constituting Examination Board.
1962, Act VI.—Anent Representation of Senatus.
1962, Act VII.—Anent Students Training at Foreign Universities.
1962, Act VIII.—Anent Revision of Foreign Missionary Regulations.
1962. Act IX.—Anent Regulations for Resident Lay Agents.
1962, Act XI.—Anent Dependants of Lay Agents.
1963, Act II.—Anent Principal Clerk.
1963, Act VI.—Anent amending Act IX., 1962.
1963, Act VII.—Anent Territorial Organisation.